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A

REVISED EDITION OF THE

ORDINANCES

OF THE

GOVERNMENT OF CEYLON.

VOLUME II.—1883-1889.

By Authority.

COLOMBO:
PRINTED BY H. C. COTTLE, ACTING GOVT. PRINTER, CEYLON.

1895.

ERRATA AND ADDENDA TO VOL. I.

Page 107.—Ordinance No. 12 of 1846 : *delete* section 8, repealed by No. 3 of 1894.

Page 304.—Ordinance No. 4 of 1863 : *delete* section 6, repealed by No. 6 of 1884.

Page 395.—Ordinance No. 16 of 1865 : *add* a reference to No. 13 of 1884.

Page 495.—Ordinance No. 17 of 1869 : *add* a reference to No. 12 of 1884.

Page 504.—Ordinance No. 17 of 1869 : *insert* as a footnote to section 31 "See sections 2 and 3 of No. 12 of 1884."

Page 538.—Ordinance No. 17 of 1869 : *add* to Table C : "All goods the importation of which is prohibited by section 15 of No. 13 of 1888."

Page 568.—Ordinance No. 4 of 1870, section 10, fourth line . *for* "shear" *read* "hear."

Page 664.—Ordinance No. 3 of 1876 : *delete* section 41, repealed by Criminal Procedure Code, 1883.

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A REVISED EDITION OF THE

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GOVERNMENT OF CEYLON.

VOLUME II.

No. 1 of 1883.

An Ordinance relating to the Law Officers of the Crown and to Deputies to the Queen's Advocate.

Preamble

WHEREAS it is expedient to alter the official designations of the Law Officers of the Crown, now known as the Queen's Advocate and the Deputy Queen's Advocate for the Island, and the designations of the several deputies to the Queen's Advocate for circuits and provinces: Be it enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Change of titles of the Law Officers of the Crown into the Attorney General and Solicitor-General.

1 The Law Officers of the Crown now designated as the "Queen's Advocate" and the "Deputy Queen's Advocate for the Island" shall, after the passing of this Ordinance, be designated, respectively, the "Attorney-General" and the "Solicitor-General," any law or usage in this colony to the contrary notwithstanding.

The words "Attorney-General" and "Solicitor-General" to be substituted for "Queen's Advocate" and "Deputy Queen's Advocate" in Ordinances.

2 Whenever the words "Queen's Advocate" or "Deputy Queen's Advocate for the Island" occur in any Ordinance, Proclamation, Regulation, Enactment, document, or other writing, or in any judicial proceeding or legal process heretofore made or taken, such words shall be held and construed, respectively, to refer to and mean the Attorney-General and the Solicitor-General, as the Law Officers of the Crown are by this Ordinance designated, and all acts, matters, or things which before the passing of this Ordinance might or could be done or transacted by the Queen's Advocate or Deputy Queen's Advocate for the Island shall

in the same manner be done and transacted by the said Law Officers under the said designation of the Attorney-General and the Solicitor-General, and all rights, precedence, powers, privileges, and authority which at the passing of this Ordinance belonged to, vested in, or were exercised by the Queen's Advocate or Deputy Queen's Advocate for the Island shall belong to, vest in, and be exercised by the said Law Officers of the Crown, respectively, by and under the designation of Attorney-General and Solicitor-General aforesaid.

"Attorney-General" and "Solicitor-General" to be substituted for "Queen's Advocate" and "Deputy Queen's Advocate" in future editions of Ordinances

3 In all future editions of any Ordinance, Proclamation, Regulation, Enactment, or other public document in which the words "Queen's Advocate" or "Deputy Queen's Advocate for the Island" shall appear, the words "Attorney-General" and "Solicitor-General," respectively, may be inserted and printed in lieu thereof.

Deputies to the Queen's Advocate to be called "Crown Counsel"

4 The officers heretofore known or designated as deputies to the Queen's Advocate for circuits and provinces shall hereafter be called and known as "Crown Counsel," and all acts, matters, and things which before the passing of this Ordinance might or could be transacted by any deputy to the Queen's Advocate shall in the same manner be done and transacted by him under the designation of Crown Counsel, and in all future editions of any Ordinance or Enactment in which the words "deputy to the Queen's Advocate" shall appear as referring and applicable to any deputy to the Queen's Advocate, the words "Crown Counsel" may be inserted and printed in lieu thereof.

Commencement of Ordinance.

5 This Ordinance shall come into operation on the first day of January, 1884.

24th October, 1883.

No. 2 of 1883.

(As amended by No. 11 of 1887, No. 13 of 1890, and No. 3 of 1892.)

An Ordinance to provide a General Penal Code for this Colony.

(See No. 16 of 1889 and No. 22 of 1889.)

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No. 2 of 1883.

(As amended by No. 11 of 1887, No. 13 of 1890, and No. 3 of 1892.)

An Ordinance to provide a General Penal Code for this Colony.

(See No. 16 of 1889 and No. 22 of 1889.)

CHAPTER I.

Preliminary.

Preamble

WHEREAS it is expedient to provide a General Penal Code for this colony: It is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title and date of operation.

1 This Ordinance shall be called "The Ceylon Penal Code," and is generally referred to hereinafter as "this Code," and shall come into operation on and from such date subsequent to the confirmation thereof by Her Majesty, as may be appointed by order of the Governor in Executive Council, proclaimed in the *Government Gazette.**

Liability for offences committed within the colony.

2 Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within this colony on or after the day on which this Code comes into operation.†

Roman-Dutch Criminal Law abolished.

3 So much of the Criminal Law heretofore administered in this colony as is known as "the Criminal Law of the United Provinces," or as the "Roman-Dutch Law," is hereby abolished.

Certain laws not to be affected.

4 Nothing in this Code is intended to repeal, vary, suspend, or affect any of the provisions of any special or local law, or to affect the liability, trial, or punishment of a person in respect of any act done or commenced before the commencement of this Code, or to affect the power heretofore possessed by the Supreme Court or any judge thereof of summarily punishing persons guilty of contempts of the said court, and advocates and proctors guilty of misconduct in the exercise of their profession.

CHAPTER II.

General Explanations.

Definitions to be understood subject to exceptions.

5 Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision shall be understood subject to the exceptions contained in chapter IV., intituled "General Exceptions," though these exceptions are not repeated in such definition, penal provision, or illustration:

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* Proclaimed 1st January, 1885.

† As to conditional release of first offenders, see No. 6 of 1891.

Illustrations.

(*a*) The sections in this Code which contain definitions of offences do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(*b*) A, a police officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement, for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Expression once explained is used in the same sense throughout the Code

6 Every expression which is explained in any part of this Code is used in every part of this Code in conformity with the explanation.

Gender.

7 The pronoun "he" and its derivatives are used of any person, whether male or female.

Number.

8 Unless the contrary appear from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

"Man." "Woman."

9 The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.

"Person."

10 The word "person" includes any company or association or body of persons, whether incorporated or not.

"Public."

11 The word "public" includes any class of the public or any community.

"Queen."

12 The word "Queen" denotes the sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Servant of the Queen."

13 The words "servant of the Queen" denote all officers or servants employed in this colony by or under the Imperial Government or the Government of this colony.

"Government."

14 The word "Government," when not otherwise qualified, denotes the person or persons authorized by law to administer executive Government in this colony.

"This colony." "Ceylon."

15 The words "this colony" and "Ceylon" denote, respectively, the colony of Ceylon.

"Governor."

16 The word "Governor" denotes the person for the time being administering the Government of Ceylon.

"Judge."

17 The word "judge" not only denotes every person who is officially designated as a judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(*a*) A police magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment is a judge.

(*b*) The president of a village tribunal and each councillor of such tribunal, when exercising jurisdiction under part V. of "The Village Communities' Ordinance, 1871," is a judge.

(*c*) A provincial registrar or assistant provincial registrar exercising jurisdiction under the 23rd section of "The Amended Kandyan Marriage Ordinance, 1870," is a judge.

(*d*) A juror at a trial before the Supreme Court is a judge.

(*e*) A police magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another court is not a judge; but a police magistrate when exercising jurisdiction in requiring persons to give security to keep the peace, or for good behaviour, is a judge.

"Court of justice."

18 The words "court of justice" denote a judge who is empowered by law to act judicially alone, or a body of judges which is empowered by law to act judicially as a body, when such judge or body of judges is acting judicially.

"Public servant."

19 The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely:

First.—Every person holding any office in Ceylon by virtue of any commission or warrant granted by the Queen or under the Queen's authority.

Second.—Every member of the Ceylon Civil Service.

Third.—Every commissioned officer in the military or naval forces of the Queen while serving in Ceylon.

Fourth.—Every judge.

Fifth.—Every officer of a court of justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the court, and every person specially authorized by a court of justice to perform any of such duties.

Sixth.—Every juryman, assessor, or councillor of a village tribunal assisting a court of justice or a public servant.

Seventh.—Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any court of justice, or by any other competent public authority.

Eighth.—Every person who holds an office by virtue of which he is empowered to place or keep any person in confinement.

Ninth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience.

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to investigate or to report on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government or remunerated by fees or commission for the performance of any public duty.

Eleventh.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustrations.

A municipal inspector is a public servant.

A division officer under "The Road Ordinance, 1861," is a public servant.

A deputy fiscal is a public servant.

A police vidahn is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Movable property."

20 The words "movable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

"Wrongful gain."
"Wrongful loss."

21 "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled. "Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

"Wrongful gain" includes wrongful retention of property.
"Wrongful loss" includes the being wrongfully kept out of property.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

22 Whoever does anything with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

23 A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

24 A person is said to have "reason to believe" a thing if he has sufficient cause to believe that thing, but not otherwise. "Reason to believe."

25 When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code. Property in possession of wife, clerk, or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant is a clerk or servant within the meaning of this section.

26 A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised. "Counterfeit."

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

27 The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. "Document."

Explanation 1.—It is immaterial by what means, or upon what substance, the letters, figures, or marks are formed, or whether the evidence is intended for or may be used in a court of justice or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A check upon a banker is a document.

A power of attorney is a document.

A map or plan which is intended to be used, or which may be used, as evidence is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

28 The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right. "Valuable security."

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will."

29 The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

30 In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act."
"Omission."

31 The word "act" denotes as well a series of acts as a single act; the word "omission" denotes as well a series of omissions as a single omission.

Liability for act done by several persons in furtherance of common intention.

32 When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

33 Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

34 Whenever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

35 When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(*a*) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence, though their acts are separate.

(*b*) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(*c*) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food: in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

36 Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Several persons engaged in the commission of a criminal act may be guilty of different offences

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

37 A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

"Voluntarily."

Illustration.

A sets fire, by night, to an inhabited house in a large town for the purpose of facilitating a robbery, and thus causes the death of a person. Here A may not have intended to cause death, and may even be sorry that death has been caused by his act, yet, if he knew that he was likely to cause death, he has caused death voluntarily.

38 (*a*) Except in the chapter and sections mentioned in clauses (*b*) and (*c*) of this section, the word "offence" denotes a thing made punishable by this Code.

"Offence."

(*b*) In chapter IV. and in the following sections, namely, sections 60, 61, 62, 67, 100, 101, 102, 103, 105, 107, 108, 109, 110, 111, 112, 113, 184, 191, 192, 200, 208, 210, 211, 216, 217, 218, 219, 220, 318, 319, 320, 321, 322, 338, 339, 377, 378, and 431, the word "offence" denotes a thing punishable in Ceylon under this Code, or under any law other than this Code.

(*c*) And in sections 138, 174, 175, 198, 199, 209, 213, and 427, the word "offence" has the same meaning when the thing punishable under any law other than this Code is punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

39 A "special law" is a law applicable to a particular subject.

"Special law."

40 A "local law" is a law applicable only to a particular part of Ceylon.

"Local law."

41 The words "illegal" and "illegally" are applicable to everything which is an offence, or which is prohibited by law, or which furnishes ground for a civil action.

"Illegal"

42 A person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Legally bound to do."

43 The word "injury" denotes any harm whatever illegally caused to any person in body, mind, reputation, or property.

"Injury."

44 The word "life" denotes the life of a human being, unless the contrary appear from the context.

"Life."

"Death"

45 The word "death" denotes the death of a human being, unless the contrary appear from the context.

"Animal"

46 The word "animal" denotes any living creature other than a human being, unless the contrary appear from the context.

"Vessel"

47 The word "vessel" denotes anything made for the conveyance by water of human beings or of property.

"Year." "Month"

48 Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British calendar.

"Section"

49 The word "section" denotes one of those portions of a chapter of this Code which are distinguished by prefixed numeral figures.

"Oath"

50 The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a court of justice or not.

"Good faith."

51 Nothing is said to be done or believed in good faith which is done or believed without due care and attention.

CHAPTER III.

Of Punishments.

Punishment.

52 The punishments to which offenders are liable under the provisions of this Code are:

First.—Death.

Secondly.—Imprisonment, which is of two descriptions, namely:

(1) Rigorous, that is, with hard labour.
(2) Simple.

Thirdly.—Whipping.

Fourthly.—Forfeiture of property.

Fifthly.—Fine.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

53 In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent for the court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence of forfeiture of property.

54 In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have

undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration.

A, being convicted of waging war against the Government, is liable to forfeiture of all his property. After sentence and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of the Government.

Whipping how to be inflicted.

55 Whenever a person is sentenced to whipping for any offence under this Code, such whipping shall, in the case of persons above sixteen years of age, be inflicted with a cat or other implement of such description as the Governor shall at any time or from time to time direct to be used for whipping, and in the case of persons under sixteen years of age, shall be inflicted with a light cane on the posteriors.

Sentence of whipping to specify number of lashes

56 The sentence of whipping must specify the number of lashes or strokes to be inflicted, and the number shall in no case exceed twenty-five lashes, or, when the person is under sixteen years of age, twenty-five strokes with a rattan.

No female or person sentenced to death or imprisonment for more than five years to be sentenced to whipping

57 No female shall in any case be punished with whipping. Nor shall any person who may be sentenced to death or to imprisonment for more than five years be punished with whipping.

Male under sixteen may be whipped in addition to or in lieu of other punishment

58 Any male under sixteen years of age who commits any offence not punishable with death, may, whether for a first or any other offence, be punished with whipping in lieu of, or in addition to, any other punishment to which he may, for such offence, be liable under this Code.

Amount of fine.

59 Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment in default of payment of fine.

60 In every case of an offence punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, and in every case of an offence punishable with fine only, in which the offender is sentenced to a fine, it shall be competent to the court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

61 The term for which the court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for such default.

62 The imprisonment which the court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

63* If the offence be punishable with fine only, the imprisonment which the court imposes in default of payment shall be simple, and the term for which the court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty rupees, and for any term not exceeding four months when the amount shall not exceed one hundred rupees, and for any term not exceeding six months in any other case.

Such imprisonment to terminate upon payment of the fine.

64 The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

65 If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred rupees and to four months' imprisonment in default of payment. Here, if seventy-five rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine may be levied within six years, or at any time during the term of imprisonment.

Death of offender not to discharge his property from liability.

66 The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Limit of punishment of offence which is made up of several offences.

67 Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Illustrations.

(*a*) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

* The provisions of this section are extended to other Ordinances by subsection 2 of section 1 of No. 22 of 1890.

(*b*) But if, while A is beating Z, Y interferes, and A intentionally strikes Y; here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z and to another for the blow given to Y.

Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished; or

Where several acts of which one, or more than one, would by itself or themselves constitute an offence, constitute when combined a different offence;

the offender shall not be punished with a more severe punishment than the court which tries him could award for any one of such offences.

Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment.

68 Whoever, having been convicted of an offence punishable under chapter XII. or chapter XVII. of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those chapters with imprisonment of either description for a term of three years or upwards, shall be *liable* for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding twenty years, or to a whipping which shall exceed twenty-five lashes or twenty-five strokes.

[§ *1, 3 of 1892*]

CHAPTER IV.

General Exceptions.

Act done by a person bound, or by mistake of fact believing himself bound, by law.

69 Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations.

(*a*) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(*b*) A, an officer of a court of justice, being ordered by that court to arrest Y, and, after due inquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of judge when acting judicially.

70 Nothing is an offence which is done by a judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of a court of justice.

71 Nothing which is done in pursuance of, or which is warranted by, the judgment or order of a court of justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the court had such jurisdiction.

Act done by a person justified, or by mistake of fact believing himself justified, by law.

72 Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the act, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self defence.

Accident in the doing of a lawful act.

73 Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means and with proper care and caution.

Illustration.

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to cause harm but done without a criminal intent and to prevent other harm.

74 Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(*a*) A, the captain of a steam vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat, B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat, C, with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(*b*) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under seven years of age.

75 Nothing is an offence which is done by a child under seven years of age.

Act of a child above seven and under twelve years of age, who has not sufficient maturity of understanding

76 Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequence of his conduct on that occasion.

77 Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person of unsound mind.

78 Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Act of a person incapable of judgment by reason of intoxication caused against his will.

79 In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

80 Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

Illustration.

A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

81 Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

82 Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person; provided—

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death;

Provisoes.

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity ;

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity ;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

83 A consent is not such a consent as is intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception ; or

Consent of a child or person of unsound mind.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent ; or, unless the contrary appear from the context, if the consent is given by a person who is under twelve years of age.

Acts which are offences independently of harm caused to the person consenting are not within the exceptions in sections 80, 81, and 82.

84 The exceptions in sections 80, 81, and 82 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm," and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for the benefit of a person without consent.

85 Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit ; provided—

Provisoes.

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death ;

Secondly.—That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(*a*) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(*b*) Z is attacked by a bear. A fires at the bear knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has commited no offence.

(*c*) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(*d*) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the housetop, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 81, 82, and 85.

Communication made in good faith.

86 No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

87 Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of housebreakers, knowing their character, is not entitled to the benefit of this exception, on the ground of his having being compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of housebreakers, and forced by threat of instant death to do a thing which is an offence by law,—for example, a smith compelled to take his tools and to force the door of a house for the housebreakers to enter and plunder it,—is entitled to the benefit of this exception.

Act causing slight harm.

88 Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence.

Nothing done in private defence is an offence.

89 Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

90 Every person has a right, subject to the restrictions contained in section 92, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body;

Secondly.—The property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

91 When an act, which would otherwise be a certain offence, is not that offence by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations.

(*a*) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b*) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a housebreaker, attacks A. Here Z, by attacking A under this misconception, commits no offence, but A has the same right of private defence against Z which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

92 *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in case in which there is time to have recourse to the protection of the public authorities.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Extent to which the right may be exercised.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

93 The right of private defence of the body extends, under the restrictions mentioned in the last preceding section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely :

When the right of private defence of the body extends to causing death.

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

Thirdly.—An assault with the intention of committing rape ;

Fourthly.—An assault with the intention of gratifying unnatural lust ;

Fifthly.—An assault with the intention of kidnapping or abducting ;

Sixthly —An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

94 If the offence be not of any of the descriptions enumerated in the last preceding section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in section 92, to the voluntary causing to the assailant of any harm other than death.

When such right extends to causing any harm other than death.

95 The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed ; and it continues as long as such apprehension of danger to the body continues.

Commencement and continuance of the right of private defence of the body.

96 The right of private defence of property extends, under the restrictions mentioned in section 92, to the voluntary causing of death or of any other harm to the

When the right of private defence of

property extends to causing death.

wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :

First.—Robbery ;

Secondly.—House-breaking by night ;

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property ;

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

97 If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in section 92, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

98 *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

99 If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if, by so firing, he harms any of the children.

CHAPTER V.

Of Abetment.

Abetment of a thing.

100 A person abets the doing of a thing who—

First.—Instigates any person to do that thing ; or

Secondly.—Engages in any conspiracy for the doing of that thing ; or

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a court of justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—A conspiracy for the doing of a thing is when two or more persons agree to do that thing or cause or procure that thing to be done. A person within the jurisdiction of the court abets an offence by engaging with one or more other persons beyond the jurisdiction of the court in a conspiracy for the commission of an offence by them, or either of them, or by any other person.

Explanation 3.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

101 A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(*a*) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(*b*) A instigates B to murder D. B, in pursuance of the instigation, stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(*a*) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(*b*) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence and had committed murder, and he is therefore subject to the punishment of death.

(*c*) A instigates B to set fire to a dwelling house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling house, and is liable to the punishment provided for that offence.

(*d*) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section, and is liable to the punishment for murder.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

102 Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(*a*) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in section 158.

(*b*) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(*c*) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B, in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

103 Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act is abetted and a different act is done. Proviso.

104 When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Illustrations.

(*a*) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(*b*) A instigates B to burn Z's house. B sets fire to the house, and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(*c*) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if the murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done.

105 If the act for which the abettor is liable under the last preceding section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer

executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

106 When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed.

107 Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Illustration.

A writes to B telling him that C is likely to pass along a certain road with treasure, and instigates B to lie in wait for and rob C. B on such instigation lies in wait for and robs C, A accompanying C along the journey. A is guilty under this section.

Abetment of an offence punishable with death, if the offence be not committed in consequence of the abetment.

If an act which causes harm be done in consequence of the abetment.

108 Whoever abets the commission of an offence punishable with death shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.

109 Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that

offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

Illustrations.

(*a*) A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

(*b*) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(*c*) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(*d*) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

110 Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or both.

Abetting the commission of an offence by the public, or by more than ten persons.

Illustration.

A fixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this section.

111 Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for twenty years, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years: and in either case shall also be liable to fine.

Concealing a design to commit an offence punishable with death or imprisonment for twenty years

If the offence be committed.

If the offence be not committed.

Illustration.

A, knowing that murder is about to be committed at B, falsely informs the magistrate that a murder is about to be committed at C, a place in an opposite direction, and thereby misleads the magistrate with intent to facilitate the commission of the offence. The murder is committed at B in pursuance of the design. A is punishable under this section.

A public servant concealing a design to commit an offence which it is his duty to prevent.

If the offence be committed.

If the offence be punishable with death, &c.

If the offence be not committed.

112 Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence, the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both ; or, if the offence be punishable with death, with imprisonment of either description for a term which may extend to ten years ; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit murder which may come to his knowledge, and knowing that B designs to commit murder, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

If not committed.

113 Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

CHAPTER VI.

Of Offences against the State.

Waging or attempting to wage war, or abetting the waging of war against the Queen.

[§ 2, 3 *of 1892*]

114 Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment *of either description which may be extended to* twenty years, and shall forfeit all his property.

Illustrations.

(*a*) A joins an insurrection against the Queen. A has committed the offence defined in this section.

(*b*) A in Ceylon abets an insurrection against the Queen's Government of India by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

115 Whoever conspires to commit any of the offences punishable by the next preceding section, or to deprive the Queen of the sovereignty of Ceylon or of any part thereof, or of any of Her Majesty's dominions, or conspires to overawe, by means of criminal force or the show of criminal force, the Government of Ceylon, shall be punished with imprisonment of either description which may extend to twenty years, and shall also be liable to fine.

Conspiracy to commit offences punishable by preceding section.

Explanation.—To constitute a conspiracy under this section it is not necessary that any act or illegal omission shall take place in pursuance thereof.

116 Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with imprisonment of either description for a term not exceeding twenty years, and shall forfeit all his property.

Collecting arms, &c., with the intention of waging war against the Queen.

117 Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Concealing with intent to facilitate a design to wage war

118 Whoever, by means of any contumacious, insulting, or disparaging words, whether spoken or intended to be read, or by signs or visible representations, shall attempt to bring the Queen or her royal dignity into contempt, shall be punishable with simple imprisonment for a period which may extend to two years, and shall also be liable to fine.

Attempt by contumacious or insulting words or signs to bring the Queen into contempt.

119 Whoever, with the intention of inducing or compelling the Governor, or a member of the Executive or Legislative Council of Ceylon, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor, or member of Council, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe such Governor, or member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Assaulting Governor, &c., with intent to compel or restrain the exercise of any lawful power.

120 Whoever by words, either spoken or intended to be read, or by signs, or by visible representations, or otherwise, excites, or attempts to excite feelings of disaffection to the Queen or to the Government established by law in Ceylon, or excites or attempts to excite hatred to or contempt of the administration of justice, or excites or attempts to excite the Queen's subjects to procure, otherwise than by lawful means, the alteration of any matter by law established, or to raise discontent or disaffection amongst the Queen's subjects, or to promote feelings of ill-will and hostility between different classes of such subjects, shall be punished with simple imprisonment for a term which may extend to two years.

Exciting or attempting to excite disaffection.

Explanation.—It is not an offence under this section by intending to show that the Queen or the Local Government have been misled or mistaken in measures, or to point out errors or defects in the Government or any part of it, or in the administration of justice, with a view to the reformation of such alleged errors or defects, or to excite the Queen's subjects to attempt to procure by lawful means the alteration of any matter by law established, or to point out in order to their removal matters which are producing or have a tendency to produce feelings of hatred or ill-will between different classes of the Queen's subjects.

Waging war against any power in alliance with the Queen.

121 Whoever wages war against the Government of any power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, to which fine may be added, or with fine.

Committing depredation on the territories of any power at peace with the Queen.

122 Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used, in committing such depredation, or acquired by such depredation.

Receiving property taken by war or depredation mentioned in sections 121 and 122.

123 Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 121 and 122, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Public servant voluntarily allowing prisoner of State or war in his custody to escape.

124 Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Public servant negligently suffering prisoner of State or war in his custody to escape.

125 Whoever, being a public servant, and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine.

Aiding escape of, rescuing, or harbouring such prisoner.

126 Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Explanation.—A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in Ceylon, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

Authority of Attorney-General required for prosecution under this chapter.

127 No prosecution shall be instituted under this chapter except by, or with the written authority of, the Attorney-General.

CHAPTER VII.

Of Offences relating to the Army and Navy.

Abetting mutiny or attempting to seduce a soldier or sailor from his duty.

128 Whoever abets the committing of mutiny by an officer, soldier, or sailor in the army or navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his allegiance or his duty, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

129 Whoever abets the committing of mutiny by an officer, soldier, or sailor in the army or navy of the Queen. shall, if mutiny be committed in consequence of that abetment, be punished with death or imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office

130 Whoever abets an assault by an officer, soldier, or sailor in the army or navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

131 Whoever abets an assault by an officer, soldier, or sailor in the army or navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of the desertion of a soldier or a sailor.

132 Whoever abets the desertion of any officer, soldier, or sailor in the army or navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring a deserter.

133 Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor in the army or navy of the Queen, has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant

134 The master or person in charge of a merchant vessel, on board of which any deserter from the army or navy of the Queen is concealed, shall, though ignorant of such

vessel through negligence of master.

concealment, be liable to a penalty not exceeding five hundred rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by a soldier or sailor.

135 Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor in the army or navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Persons subject to Army Act not punishable under this Code.

136 No person subject to the provisions of the Imperial "Army Act, 1881," or any similar law for the time being in force, or to any regulations made thereunder, is subject to punishment under this Code for any of the offences defined in this chapter.

Wearing the dress of a soldier.

137 Whoever, not being a soldier in the military or naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

CHAPTER VIII.

Offences against the Public Tranquillity.

Unlawful assembly.

138 An assembly of five or more persons is designated an "unlawful assembly" if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, the Executive Government or the Legislative Council of Ceylon or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law or of any legal process; or

Third.—To commit any mischief or criminal trespass or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person or the public of the enjoyment of a right of way or of the use of water or other incorporeal right of which such person or public is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do; or

Sixth.—That the persons assembled, or any of them, may train or drill themselves, or be trained or drilled to the use of arms, or practising military movements or evolutions, without the consent of the Governor of the colony.

Explanation.—An assembly which was not unlawful when it assembled may subsequently become an unlawful assembly.

Being a member of an unlawful assembly.

139 Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

140 Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

141 Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly knowing that it has been commanded to disperse

142 Whoever joins or continues in an unlawful assembly knowing that such unlawful assembly has been commanded by lawful authority to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Force used by one member in prosecution of common object.

143 Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Punishment for rioting

144 Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Rioting, armed with a deadly weapon.

145 Whoever is guilty of rioting, being armed with a deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

146 If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly know to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly is guilty of that offence.

Hiring or conniving at hiring of persons to join an unlawful assembly.

147 Whoever hires, or engages, or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence which may be committed by

any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

148 Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of section 138, the offender will be punishable under section 142.

Assaulting or obstructing public servant when suppressing riot, &c.

149 Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Wantonly giving provocation. with intent to cause riot. If rioting be committed.

If not committed.

150 Whoever maliciously or wantonly, by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both ; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Owner or occupier of land on which an unlawful assembly is held.

151 Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his power to the nearest police officer, and do not, in the case of his having reason to believe that it was about to be committed, use all lawful means in his power to prevent it, and in the event of its taking place do not use all lawful means in his power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit a riot is committed

152 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he, having reason to believe that such riot was likely

to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such assembly or riot from taking place and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed.

153 Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

154 Whoever harbours, receives, or assembles in any house or premises in his occupation or charge or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

Or to go armed.

155 Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in section 138 shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both ; and whoever, being so engaged or hired as aforesaid, goes armed or engages or offers to go armed with any deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Affray.

156 When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for committing affray.

157 Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER IX.

Of Offences by or relating to Public Servants.

Public servant taking a gratification other than legal remuneration in respect of an official act.

158 Whoever, being or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of

his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Legislative or Executive Government of Ceylon, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person, not expecting to be in office, obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a*) A, expecting to be called as a juryman, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for giving a verdict in favour of Z. A has committed the offence defined in this section.

(*b*) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this section.

Taking a gratification in order, by corrupt or illegal means, to influence a public servant.

159 Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative Council or the Executive Government of Ceylon, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking a gratification for the exercise of personal influence with a public servant.

160 Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Legislative Council or the Executive Government of Ceylon, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An advocate who receives a fee for arguing a case before a judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

161 Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant disobeying a direction of the law with intent to cause injury to any person or the Government.

162 Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person or to the Government, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a court of justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

163 Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause, injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent or malicious infraction of duty by public servant in telegraph department.

164 Whoever, being a public servant, employed in the electric telegraph department of Government, fraudulently or maliciously secretes, makes away with, alters, or omits to transmit any message which may have been lawfully delivered to him for transmission, or fraudulently or maliciously discloses to any person not authorized to receive the same any message received by him in the course of his employment as aforesaid, shall be punished with imprisonment of either description, which may extend to a term of two years, or with fine, or with both.

Misconduct by public servant in telegraph or

165 Whoever, being a public servant, employed in the electric telegraph or postal department of Government, by drunkenness, carelessness, or other misconduct, endangers

postal department.

or delays the transmission of any message, letter, or postal packet, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Fraud by public servant in telegraph department.

166 Whoever, being a public servant, employed in the electric telegraph department of Government, transmits by the electric telegraph any message upon which the prescribed charge has not been paid, with intent thereby to defraud, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Injury to messages, &c., committed by public servants in postal or telegraph department.

167 Whoever, being a public servant, employed in the electric telegraph or postal department of Government, does, contrary to his duty, secrete, destroy, mutilate, or break open any telegraphic despatch or letter or postal packet, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Personating a public servant.

168 Whoever pretends to hold any particular office, as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

169 Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

CHAPTER X.

Of Contempts of the Lawful Authority of Public Servants.

Absconding to avoid service of summons or other proceeding from a public servant

170 Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a court of justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Preventing service of summons or other proceeding

171 Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons,

notice, or order, or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; or, if the summons, notice, or order, or proclamation is to attend in person or by agent, or to produce a document in a court of justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

or preventing publication thereof.

172 Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; or, if the summons, notice, order, or proclamation is to attend in person or by agent in a court of justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Non-attendance in obedience to an order from a public servant

Illustrations.

(*a*) A, being legally bound to appear before the Supreme Court at Colombo, in obedience to a subpœna, intentionally omits to appear. A has committed the offence defined in this section.

(*b*) A, being legally bound to appear before a district judge as a witness in obedience to a summons issued by that district judge, intentionally omits to appear. A has committed the offence defined in this section.

173 Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; or, if the document is to be produced or delivered up to a court of justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Omission to produce a document to a public servant by a person legally bound to produce such document.

Illustration.

A, being legally bound to produce a document before a district court, intentionally omits to produce the same. A has committed the offence defined in this section.

174 Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by

Omission to give notice or information to a public servant

by a person legally bound to give notice or information.

law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Furnishing false information.

175 Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both; or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

Refusing oath when duly required to take oath by a public servant.

176 Whoever refuses to bind himself by an oath or an affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Refusing to answer a public servant authorized to question.

177 Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant, in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Refusing to sign statement.

178 Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

False statement on oath to public servant or person authorized to administer an oath.

179 Whoever, being legally bound by an oath or an affirmation to state the truth on any subject to any public servant or other person authorized by law to administer such oath or affirmation, makes to such public servant or other person as aforesaid, touching that subject, any statement

which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information with intent to cause a public servant to use his lawful power to the injury of another person.

180 Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do, or omit anything which such public servant ought not to do, or omit, if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Illustrations.

(*a*) A informs the Inspector-General of Police that Z, a police officer, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Inspector-General to dismiss Z. A has committed the offence defined in this section.

(*b*) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

Resistance to the taking of property by the lawful authority of a public servant.

181 Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

182 Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

Obstructing public servant in discharge of his public functions.

183 Whoever voluntarily obstructs any public servant or any person acting under the lawful orders of such public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

184 Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend

to fifty rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a court of justice, or of preventing the commission of an offence, or of suppressing a riot, unlawful assembly, or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

185 Whoever, knowing that (by an order promulgated by a public servant lawfully empowered to promulgate such order) he is directed to abstain from a certain act or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health, or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

Threat of injury to a public servant.

186 Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

187 Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application, for protection against any injury, to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

Of False Evidence and Offences against Public Justice.

Giving false evidence.

188 Whoever, being legally bound by an oath or affirmation, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, is said to give "false evidence."

Wherever in any Ordinance the word "perjury" occurs, such Ordinance shall be read as if the words "giving false evidence" were therein used instead of the word "perjury."

Explanation 1.—A statement is within the meaning of this section whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a*) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(*b*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c*) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence, whether Z was at that place on the day named or not.

(*e*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document, which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating false evidence.

189 Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(*a*) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b*) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a court of justice. A has fabricated false evidence.

(*c*) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

Punishment for false evidence.

190 Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a court martial or before a military court of requests is a judicial proceeding.

Explanation 2.—An investigation directed by law, preliminary to a proceeding before a court of justice, is a stage of a judicial proceeding, though that investigation may not take place before a court of justice.

Illustration.

A, in an inquiry before a police magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a court of justice according to law, and conducted under the authority of a court of justice, is a stage of a judicial proceeding, though that investigation may not take place before a court of justice.

Illustration.

A, in an inquiry before an officer deputed by a court of justice to ascertain on the spot the boundaries of land, makes on oath or affirmation a statement which he knows to be false. As this inquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of a capital offence

If innocent person be thereby convicted and executed

191 Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is punishable with death by this Code or the law of England, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished with death.

192 Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code or the law of England is not capital, but punishable with imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for seven years or upwards.

Illustration.

A gives false evidence before a court of justice, intending thereby to cause Z to be convicted of a robbery. The punishment of robbery is rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to such imprisonment with or without fine.

193 Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Using evidence known to be false.

194 Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Issuing or signing a false certificate.

195 Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

196 Whoever, in any declaration made or subscribed by him, which declaration any court of justice, or any public servant or other person, is bound or authorized by law to receive, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

197 Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality is a declaration within the meaning of sections 196 and 197.

198 Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender

If a capital offence.

If punishable with ten years' imprisonment.

If punishable with less than ten years' imprisonment.

is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Intentional omission to give information of an offence by a person bound to inform.

199 Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Giving false information respecting an offence committed.

200 Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

201 Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a court of justice, or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

202 Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

203 Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a court of justice or other competent authority, or from being taken in execution of a decree or order which has been made or

which he knows to be likely to be made by a court of justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

204 Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a court of justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a court of justice in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

205 Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section.

Dishonestly making false claim in a court of justice.

206 Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a court of justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining a decree for a sum not due.

207 Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

208 Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, or imprisonment for seven years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring an offender.

If a capital offence.

If punishable with imprisonment.

209 Whenever an offence has been committed, whoever harbours, conceals, assists, or maintains a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed robbery, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to imprisonment which may extend to ten years, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment.

If a capital offence.

If punishable with imprisonment.

210 Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person in consideration of his concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender.

If a capital offence.

If punishable with imprisonment.

211 Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—The provisions of sections 210 and 211 do not extend to any case in which the offence may lawfully be compounded.

Taking gift to help to recover stolen property, &c.

212 Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody or whose apprehension has been ordered.

If a capital offence.

If punishable with imprisonment.

213 Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with imprisonment for a term which may extend to ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the

imprisonment provided for such offence, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

214 Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

215 Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

216 Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape, from such confinement, shall be punished as follows, that is to say :

Punishment.

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with death ; or

With imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term which may extend to ten years ; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years

217 Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a court of justice for any offence, or if the person was lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence or lawfully committed.

With imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement or who ought to have been apprehended is under sentence of death; or

Punishment.

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended is subject, by a sentence of a court of justice, or by virtue of a commutation of such sentence, to imprisonment for a term of ten years or upwards; or

With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject, by a sentence of a court of justice, to imprisonment for a term not extending to ten years, or if the person was lawfully committed to custody.

218 Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Escape from confinement or custody negligently suffered by a public servant.

219* Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or for which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

Explanation.—The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

220 Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; or

Resistance or obstruction to the lawful apprehension of another person

Punishment.

* Resistance or obstruction to arrest under civil process is provided for by section 2 of No. 11 of 1887.

If the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; or

If the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; or

If the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a court of justice, or by virtue of a commutation of such a sentence, to imprisonment for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine ; or

If the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Escape from custody.

221 Whoever escapes or attempts to escape from any custody in which he is lawfully detained for failing to furnish good security for the peace or good behaviour, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Violation of condition of remission of punishment.

222 Whoever, having accepted any conditional pardon or remission of punishment, knowingly violates any condition on which such remission was granted, shall, if his original sentence is one of death, be punished with imprisonment of either description which may extend to twenty years, and if his original sentence be not one of death, be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Intentional insult or interruption of a public servant sitting in any stage of a judicial proceeding.

223 Whoever intentionally offers any insult or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Personation of a juror or assessor.

224 Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as juryman or assessor in any case in which he knows that he is not entitled by law to be so returned. empanelled, or sworn, or knowing himself to have been so returned, empanelled, or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XII.

Of Offences relating to Coin and Government Stamps.

225 "Coin" is metal used as money, and stamped and issued by the authority of some Government in order to be so used. "Coin" defined.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of Ceylon, or of any Government in the Queen's dominions, is the "Queen's coin." Queen's coin

Illustrations.

(*a*) Cowries are not coin.
(*b*) Lumps or bars of unstamped metal, though used as money, are not coin.
(*c*) Medals are not coin, inasmuch as they are not intended to be used as money.
(*d*) The coin denominated as the rupee is the Queen's coin.

226 Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Counterfeiting coin.

Explanation.—A person commits this offence, who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

227 Whoever counterfeits or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Counterfeiting the Queen's coin.

228 Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Making or selling instrument for counterfeiting coin.

229 Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of any die or instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Making or selling instrument for counterfeiting Queen's coin.

230 Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Possession of instrument or material for the purpose of using the same for counterfeiting coin.

Abetting in Ceylon the counterfeiting out of Ceylon of coin.

231 Whoever, being within this colony, abets the counterfeiting of coin out of this colony, shall be punished in the same manner as if he abetted the counterfeiting of such coin within this colony.

Import or export of counterfeit coin.

232 Whoever imports into this colony, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeits of the Queen's coin.

233 Whoever imports into this colony, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of counterfeit coin possessed with the knowledge that it is counterfeit.

234 Whoever, having any counterfeit coin, which at the time he became possessed of it he knew to be counterfeit, fraudulently, or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is counterfeit.

235 Whoever having any counterfeit coin, which is a counterfeit of the Queen's coin, and which at the time he became possessed of it he knew to be a counterfeit of the Queen's coin, fraudulently, or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin as genuine, which when first possessed the deliverer did not know to be counterfeit.

236 Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

237 Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of counterfeit Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

238 Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

239 Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

Explanation.—A person who scoops out part of the coin and puts anything else into the cavity alters the composition of that coin.

240 Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.

241 Whoever performs on any coin any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

242 Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.

243 Whoever, having coin in his possession with respect to which the offence defined in sections 239 or 241 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

244 Whoever, having coin in his possession with respect to which the offence defined in sections 240 or 242 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently, or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of Queen's coin with the knowledge that it is altered.

245 Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the sections 239 or 241 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

246 Whoever fraudulently, or with intent that fraud may be committed, is in possession of Queen's coin with respect to which the offence defined in either of the sections 240 or 242 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such Queen's coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be altered.

247 Whoever delivers to any other person as genuine, or as a coin of a different description from which it is, or attempts to induce any person to receive as genuine or as a different coin from which it is, any coin in respect of which he knows that any such operation as that mentioned in sections 239, 240, 241, or 242 has been performed, but in respect of which he did not at the time when he took it into his possession know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Counterfeiting a Government stamp.

248 Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of an instrument or material for the purpose of counterfeiting a Government stamp

249 Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government stamp.

250 Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

251 Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

252 Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government stamp.

253 Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Using as genuine a Government stamp known to be counterfeit.

254 Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Effacing any writing from a substance bearing a Government stamp or removing from a document a stamp used for it with intent to cause loss to Government.

255 Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Using a Government stamp known to have been before used.

256 Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or fraudulently or with such intent alters any such mark, or knowingly has in his possession, or sells, or disposes of, any such stamp from which such mark has been erased or removed, or on which such mark has been altered, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

Explanation.—The word "stamp" where used in this chapter includes postage stamps.

CHAPTER XIII.

Of Offences relating to Weights and Measures.

257 Whoever *fraudulently* uses any instrument for weighing, which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Use of false instrument for weighing.

[§ *1, 11 of 1887*]

Use of false weight or measure.
[§ *1, 11 of 1887*]

258 Whoever *fraudulently* uses any false weight or false measure of length or capacity, or *fraudulently* uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.
[§ *1, 11 of 1887*]

259 Whoever is in possession of any false instrument for weighing, or of any false weight, or of any false measure of length or capacity, intending that the same may be *fraudulently* used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

260 Whoever makes, sells, or disposes of any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XIV.

Of Offences affecting the Public Health, Safety, Convenience, Decency, and Morals.

Public nuisance.

261 A person is guilty of a public nuisance who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general, who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A public nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

262 Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malicious act likely to spread infection of any disease dangerous to life.

263 Whoever maliciously does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine rule.

264 Whoever knowingly disobeys any rule made and promulgated by Government for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other

vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

265 Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Sale of noxious food or drink.

266 Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Adulteration of drugs.

267 Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Sale of adulterated drugs.

268 Whoever knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Sale of any drug as a different drug or preparation

269 Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Fouling the water of a public spring or reservoir.

270 Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Making atmosphere noxious to health.

271 Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to one hundred rupees.

Rash driving or riding on a public way.

272 Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Rash navigation of a vessel.

273 Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Exhibition of a false light, mark, or buoy.

274 Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

275 Whoever knowingly or negligently conveys or causes to be conveyed for hire any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Danger or obstruction in a public way or navigation.

276 Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to one hundred rupees.

Negligent conduct with respect to any poisonous substance.

277 Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Negligent conduct with respect to any fire or combustible matter.

278 Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life,

or hurt or injury to any other person from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Negligent conduct with respect to any explosive substance.

279 Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

280 Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

281 Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Negligence with respect to any animal.

282 Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Punishment for public nuisance.

283 Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to fifty rupees, or with imprisonment of either description which may extend to three months, or with both.

Continuance of nuisance after injunction to discontinue.

284 Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Sale, &c., of obscene books.

285 Whoever sells or distributes, imports, or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, photograph, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Having in possession obscene books for sale or exhibition.

286 Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

287 Whoever sings, recites, or utters in or near any public place, any obscene song, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Keeping lottery office.

288 Whoever keeps any office or place for the purpose of drawing any lottery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

And whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, or figure in any such lottery, shall be punished with fine which may extend to one hundred rupees.

No prosecution shall be instituted under this section except by or with the written consent of the Attorney-General.

Wilful omission of statutory duty.

289 Whoever wilfully neglects or omits to perform any duty imposed upon him by, or wilfully disobeys or infringes any provision of, any Ordinance or Statute heretofore or hereafter to be enacted, for which neglect, omission, disobedience, or infringement no punishment is or shall be by this Code or any other Ordinance or Statute otherwise specially provided, shall be punished with a fine.

CHAPTER XV.

Of Offences relating to Religion.

Injuring or defiling a place of worship with intent to insult the religion of any class.

290 Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disturbing a religious assembly.

291 Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, &c.

292 Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XVI.

Of Offences affecting the Human Body.

Of Offences affecting Life.

Culpable homicide.

293 Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations.

(*a*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in, and is killed. A has committed the offence of culpable homicide.

(*b*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

294 Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death; or

Secondly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or

Thirdly.—If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

Fourthly.—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b*) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(*d*) A, without any excuse, fires a loaded gun into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisoes:—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

(*a*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c*) A is lawfully arrested by Z, a fiscal's officer. A is excited to sudden and violent passion by the arrest and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(*d*) A appears as a witness before Z, a magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words and kills Z. This is murder.

(*e*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence and kills Z This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f*) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A, believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the

powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Culpable homicide by causing the death of a person other than the person whose death was intended.

295 If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

296 Whoever commits murder shall be punished with death.

Punishment for culpable homicide not amounting to murder.

297 Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Causing death by negligence.

298 Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Abetment of suicide.

299 If any person commits suicide, whoever abets the commission of such suicide shall be punished with death.

Attempt to murder.

300 Whoever does any act with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable to imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Illustrations.

(*a*) A shoots at Z with intention to kill him under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this section.

(*b*) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(*c*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this section.

(*d*) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping. A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

Attempt to commit culpable homicide.

301 Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

Attempt to commit suicide.

302 Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Of the causing of Miscarriage, or Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

Causing miscarriage.

303 Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A woman who causes herself to miscarry is within the meaning of this section.

Causing miscarriage without woman's consent.

304 Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Death caused by an act done with intent to cause miscarriage.

305 Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

306 Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Causing death of a quick unborn child by an act amounting to culpable homicide.

307 Whoever does any act under such circumstances that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section.

Exposure and abandonment of a child under twelve years by parent or person having care of it.

308 Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body.

309 Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Of Hurt.

Hurt.

310 Whoever causes bodily pain, disease, or infirmity to any person is said to "cause hurt."

Grievous hurt.

311 The following kinds of hurt only are designated as "grievous":

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

312 Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

313 Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt.

314 Whoever, except in the case provided for by section 325, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means.

315 Whoever, except in the case provided for by section 325, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.*

Punishment for voluntarily causing grievous hurt.

316 Whoever, except in the case provided for by section 326, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the person to whom the grievous hurt is caused shall be a woman or a child, may in addition be punished with whipping.

* And with whipping, section 2 (*a*) of No. 16 of 1889.

Voluntarily causing grievous hurt by dangerous weapons or means.

317 Whoever, except in the case provided for by section 326, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine;* and if the person to whom the grievous hurt is caused shall be a woman or a child, may in addition be punished with whipping.

Voluntarily causing hurt to extort property, or to constrain to an illegal act.

318 Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

319 Whoever administers to, or causes to be taken by, any person any poison or any stupefying, intoxicating, or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

320 Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine or to whipping.

Voluntarily causing hurt to extort confession, or to compel restoration of property.

321 Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

* And with whipping, section 2 (*b*) of No. 16 of 1889.

Illustrations.

(*a*) A, a police officer, tortures Z in order to induce Z to confess that he committed a crime A is guilty of an offence under this section.

(*b*) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(*c*) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section.

(*d*) A, a landowner, tortures his tenant in order to compel him to pay his rent. A is guilty of an offence under this section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

322 Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty

323 Whoever voluntarily causes hurt to any person, being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter public servant from his duty.

324 Whoever voluntarily causes grievous hurt to any person, being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

325 Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Voluntarily causing grievous hurt on provocation.

326 Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person

other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to four years, or with fine which may extend to two thousand rupees, or with both.

Explanation.—The last two sections are subject to the same provisoes as exception 1, section 294.

Punishment for act which endangers life or the personal safety of others.

327 Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

328 Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

329 Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Wrongful Restraint and Wrongful Confinement.

Wrongful restraint

330 Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said "wrongfully to restrain" that person.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

Wrongful confinement.

331 Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a*) A causes Z to go within a walled space and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b*) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

332 Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

333 Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Punishment for wrongful confinement.

334 Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for three or more days.

335 Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for ten or more days.

336 Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other section of this Code.

Wrongful confinement of person for whose liberation a writ has been issued.

337 Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement in secret.

338 Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined, or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting property, or constraining to an illegal act.

339 Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession, or of compelling restoration of property.

Of Criminal Force and Assault.

340 A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion or change

Force.

of motion or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling; provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described:

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion takes place without any further act on his part or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

341 Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending illegally by the use of such force to cause, or knowing it to be likely that by the use of such force he will illegally cause injury, fear, or annoyance to the person to whom the force is used, is said to use "criminal force" to that other.

Illustrations.

(*a*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c*) Z is riding in a palanquin. A intending to rob Z seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has there used force to Z; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e*) A throws a stone, intending or knowing it to be likely that the stone will thus be brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something

carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g*) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*h*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z he uses criminal force to Z.

(*i*) A, a schoolmaster, in the reasonable exercise of his discretion as master, flogs B, one of his scholars. A does not use criminal force to B, because, although A intends to cause fear and annoyance to B, he does not use force illegally.

Assault.

342 Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit "an assault."

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to assault.

Punishment for using criminal force otherwise than on grave provocation.

343 Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to fifty rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or

If the provocation is given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant; or

If the provocation is given by anything done in the lawful exercise of the right of private defence

Whether the provocation was grave and sudden enough to mitigate the offence is a question of fact.

Using criminal force to deter a public servant from discharge of his duty

344 Whoever assaults or uses criminal force to any person, being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

345 Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage, her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both, and may in addition be punished with whipping.

Assault or criminal force with intent to dishonour a person, otherwise than on grave provocation.

346 Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

347 Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

348 Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Assaulting or using criminal force on grave provocation.

349 Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

Explanation.—The last section is subject to the same explanations as section 343.

Of Kidnapping, Abduction, and Slavery.

Kidnapping.

350 Kidnapping is of two kinds: kidnapping from Ceylon, and kidnapping from lawful guardianship.

Kidnapping from Ceylon.

351 Whoever conveys any person beyond the limits of Ceylon without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to "kidnap that person from Ceylon."

352 Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to "kidnap such minor or person from lawful guardianship." **Kidnapping from lawful guardianship.**

Explanation.—The words "lawful guardian" in this section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

353 Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to "abduct" that person. **Abduction.**

354 Whoever kidnaps any person from Ceylon or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. **Punishment for kidnapping.**

355 Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine. **Kidnapping or abducting in order to murder.**

Illustrations.

(*a*) A kidnaps Z from Ceylon, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section.

(*b*) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

356 Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. **Kidnapping or abducting with intent secretly and wrongfully to confine a person.**

357 Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. **Kidnapping or abducting a woman to compel her marriage, &c.**

358 Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it **Kidnapping or abducting in order to subject a person to**

grievous hurt, slavery, &c.

to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

359 Whoever knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under ten years with intent to steal movable property from the person of such child.

360 Whoever kidnaps or abducts any child under the age of ten years, with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

361 Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves.

362 Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

Of Rape.

Rape.

363 A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

[§ *1, 13 of 1890*]

Fifthly.—With or without her consent, when she is *under twelve years of age.*

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being *under twelve years of age*, is not rape.

Punishment for rape.

364 Whoever commits rape shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.*

* And with whipping, section 2 (*c*) of No. 16 of 1889.

Of Unnatural Offences.

365 Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.* Unnatural offences.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this section.

CHAPTER XVII.

Of Offences against Property.

Of Theft.

366 Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit "theft." Theft.

Explanation 1.—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(*a*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move A has committed theft of the treasure.

(*d*) A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

* And with whipping, section 2 (*d*) of No. 16 of 1889.

(*e*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft though he may have committed criminal breach of trust.

(*f*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*) A finds a ring lying on the high road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefore committed theft.

(*m*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z, her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here as A does not take dishonestly, he does not commit theft.

Punishment for theft.

367 Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

368 Whoever commits theft of any bull, cow, steer, buffalo, heifer, or calf, or of any fruit, vegetable, or other prædial production, or any cultivated root or plant used, or capable of being used, for the food of man or beast, or for medicine, distilling, or dyeing, or in the course of any manufacture, may, in addition to any other punishment for theft, be punished with whipping. **Theft of cattle. Of prædial products.**

369 Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. **Theft in dwelling house, &c.**

370 Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. **Theft by clerk or servant of property in possession of master**

371 Whoever commits theft, having made preparation for causing death or hurt or restraint, or fear of death or of hurt or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.* **Theft after preparation made for causing death or hurt, in order to the committing of the theft.**

Illustrations.

(*a*) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z, in case Z should resist. A has committed the offence defined in this section.

(*b*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section.

Of Extortion.

372 Whoever intentionally puts any person in fear of any injury to that person or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or anything signed or sealed which may be converted into a valuable security, commits "extortion." **Extortion.**

Illustrations.

(*a*) A threatens to publish a defamatory libel concerning Z, unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(*b*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain moneys to A. Z signs and delivers the note. A has committed extortion.

* And with whipping, section 2 (*e*) of No. 16 of 1889.

(c) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

Punishment for extortion.

373 Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Putting person in fear of injury in order to commit extortion.

374 Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extortion by putting a person in fear of death or grievous hurt.

375 Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

376 Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years, &c.

377 Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under section 365, may be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine.*

Putting person in fear of accusation of offence, in order to commit extortion.

378 Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed or attempted to commit an offence punishable with death, or with imprisonment for a term which may extend to ten years or more, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, and if the offence be punishable under section 365, may be punished with rigorous imprisonment which may extend to twenty years, and shall also be liable to fine.*

Of Robbery.

Robbery.

379 In all robbery there is either theft or extortion.

When theft is robbery.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the

* And with whipping, section 2 (*f*) and (*g*) of No. 16 of 1889.

offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint.

When extortion is robbery.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z A has therefore committed robbery.

(*b*) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c*) A meets Z and Z's child on the high road. A takes the child and threatens to fling it down a precipice unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

Punishment for robbery.

380 Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine, and if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Attempt to commit robbery.

381 Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.*

Voluntarily causing hurt in committing robbery.

382 If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with rigorous imprisonment for a term which may extend to twenty years, and shall also be liable to fine or to whipping.

* And with whipping, section 2 (*i*) of No. 16 of 1889.

Robbery with attempt to cause death or grievous hurt.

[§ 3, 3 of 1892]

383 If, at the time of committing robbery, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished *may be extended to twenty* years.*

Attempt to commit robbery when armed with deadly weapon

[§ 4, 3 of 1892]

384 If, at the time of attempting to commit a robbery, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished *may be extended to twenty* years.*

Punishment for belonging to a wandering gang of thieves.

385 Whoever, at any time after the passing of this Code, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Of Criminal Misappropriation of Property.

Dishonest misappropriation of property.

386 Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

(*b*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

(*c*) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is misappropriation within the meaning of this section.

Illustration.

A finds a promissory note belonging to Z, payable to bearer. A knowing that the note belongs to Z, pledges it with a banker as security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

* And with whipping, section 2 (*j*) and (*k*) of No. 16 of 1889.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believes that the real owner cannot be found.

Illustrations.

(*a*) A finds a rupee on the high road, not knowing to whom the rupee belongs. A picks up the rupee. Here A has not committed the offence defined in this section.

(*b*) A finds a letter on the road containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(*c*) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque appears. A knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(*d*) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section.

(*e*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(*f*) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

387 Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section.

Of Criminal Breach of Trust.

Criminal breach of trust.

388* Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of

* For criminal breach of trust by public servant, see Ordinance No. 22 of 1889, section 1.

any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a*) A being executor to the will of a deceased person, dishonestly disobeys the law, which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b*) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c*) A, residing in Colombo, is agent for Z, residing in England. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits ten thousand rupees to A, with directions to A to invest the same on mortgage of coffee estates. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d*) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in a company, disobeys Z's directions and buys shares in a company in Z's name instead of investing the money on mortgage, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e*) A, a revenue officer, is entrusted with public money, and is either directed by law or bound by a contract, express or implied, with the Government, to pay into a certain kachchéri all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f*) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

389 Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal breach of trust by carrier, &c.

390 Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

391* Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

* See Ordinance No. 22 of 1889.

LEGAL SECRETARY'S LIBRARY.

392 Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant, or agent.

Of the receiving of Stolen Property.

393 Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property," whether the transfer has been made, or the misappropriation or breach of trust has been committed within or without this colony. But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Stolen property.

394 Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving stolen property.

395 Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Habitually dealing in stolen property.

396 Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Assisting in concealment of stolen property.

397 If the stolen property referred to in the three preceding sections shall be of any of the descriptions mentioned in section 368, the offender may, in addition to the punishments by the three preceding sections imposed, be punished with whipping.

Receiving stolen cattle or prædial products.

Of Cheating.

398 Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, or damage or loss to the Government, is said to "cheat."

Cheating.

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section.

Illustrations.

(*a*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b*) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d*) A, by tendering in payment for an article a cheque on a bank with which A keeps no money, and by which A expects that the cheque will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e*) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(*g*) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of copperah which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the copperah, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i*) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z A cheats.

Cheating by personation.

399 A person is said to "cheat by personation" if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person

Illustrations.

(*a*) A cheats by pretending to be a certain rich merchant of the same name. A cheats by personation.

(*b*) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

400 Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

401 Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person, whose interest in the transaction to which the cheating relates he was bound either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

402 Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

403 Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Cheating and dishonestly inducing a delivery of property.

Of Fraudulent Deeds and Dispositions of Property.

404 Whoever dishonestly or fraudulently removes, conceals, or delivers to any person or transfers or causes to be transferred to any person, without adequate consideration, any property intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

405 Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing being made available for his creditors a debt or demand due to the offender.

406 Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

407 Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

Of Mischief and illegal removal of Wrecks.

Mischief.

408 Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b*) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c*) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f*) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief

(*g*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*) A causes cattle to enter upon a field belonging to Z, intending to cause, and knowing that he is likely to cause, damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

409 Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of fifty rupees

410 Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of ten rupees.

411 Whoever commits mischief by killing, poisoning, maiming, or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

412 Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, ass, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by killing or maiming cattle, &c., or any animal of the value of fifty rupees.

413 Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings, or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

414 Whoever commits mischief by doing any act which renders, or which he knows to be likely to render, any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

415 Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause, an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

416 Whoever commits mischief by destroying or moving any lighthouse or other light used as a seamark, or any seamark or buoy or other thing placed as a guide for navigators, or by any act which renders any such lighthouse, seamark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a lighthouse or seamark, or by exhibiting false lights.

417 Whoever commits mischief by destroying or moving any landmark fixed by the authority of a public servant, or by any act which renders such landmark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by destroying or moving, &c., a landmark fixed by public authority.

418 Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to cause damage to the amount of one hundred rupees.

419 Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause, the destruction of any building which

Mischief by fire or explosive substance with

intent to destroy a house, &c.

is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment of either description for a term which may extend to fifteen years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of ten tons burden.

420 Whoever commits mischief to any decked vessel or any vessel of a burden of ten tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in the last section when committed by fire or any explosive substance.

421 Whoever commits or attempts to commit by fire or any explosive substance such mischief as is described in the last preceding section, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

422 Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for impeding the saving of a vessel.

423 Whoever, without lawful excuse, endeavours in any way to prevent or impede the saving of any vessel stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel of such vessel or any wreck, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Punishment for removing or secreting wreck.

424 Whoever illegally carries away or removes any part of any vessel stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof or any wreck; and whoever illegally secretes any wreck or obliterates or defaces any marks thereon, shall be punished with imprisonment of either description which may extend to one year, or with fine, or with both.

Taking wreck into foreign port.

425 Whoever illegally takes into any foreign port or place any vessel stranded or derelict or otherwise in distress on or near the sea-shore or the shore of any tidal water of Ceylon, or any part of the cargo or apparel thereof, or anything belonging thereto or any wreck found on or near such sea-shore or shore aforesaid, and there sells the same, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Explanation.—The word wreck used in sections 423, 424, and 425 includes jetsam, flotsam, lagan, and derelict.

426 Whoever commits mischief, having made preparation for causing to any person death or hurt or wrongful restraint, or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

Of Criminal Trespass.

427 Whoever enters into or upon property in the possession or occupation of another with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or, having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person or with intent to commit an offence, is said to commit "criminal trespass."

Criminal trespass.

428 Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

House-trespass.

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

429 Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel, which is the subject of the trespass, is said to commit "lurking house-trespass."*

Lurking house-trespass.

430 Whoever commits lurking house-trespass after sunset and before sunrise is said to commit "lurking house-trespass by night."*

Lurking house-trespass by night.

431 A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say*:

House-breaking.

First.—If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened.

* When punishable with whipping, section 2 (*l*) and (*m*) of No. 16 of 1889.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any outhouse or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations.

(*a*) A commits house-trespass by making a hole through the wall of Z's house and putting his hand through the aperture. This is house-breaking.

(*b*) A commits house-trespass by creeping into a ship at a port hole between decks. This is house-breaking.

(*c*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g*) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h*) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

432 Whoever commits house-breaking after sunset and before sunrise is said to commit "house-breaking by night."*

Punishment for criminal trespass.

433 Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Punishment for house-trespass.

434 Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

House-trespass in order to the commission of an offence punishable with death

435 Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with rigorous imprisonment for a term not exceeding twenty years, and shall also be liable to fine.

* When punishable with whipping, section 2 (*m*) of No. 16 of 1889.

436 Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for ten years or more, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with imprisonment for ten years or more.

437 Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment for less than ten years, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass in order to the commission of an offence punishable with imprisonment for less than ten years.

438 Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

House-trespass after preparation made for causing hurt to any person.

439 Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

440 Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking, in order to the commission of an offence punishable with imprisonment.

441 Whoever commits lurking house-trespass or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

442 Whoever commits lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.*

Punishment for lurking house-trespass or house-breaking by night.

443 Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of imprisonment may be extended to fourteen years.*

Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

* See Ordinance No. 16 of 1889, section 2 (*m*).

Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person.

444 Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

445 Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine, or to whipping.

All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number.

446 If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Dishonestly breaking open any closed receptacle containing or supposed to contain property.

447 Whoever dishonestly, or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

448 Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Unlawful possession of house-breaking implement or offensive weapon.

449 Whoever has in his custody or possession any implement with intent unlawfully to break into any building, or any offensive weapon with intent to commit any unlawful act, shall be punished with imprisonment of either description for a term which may extend to two years, and to fine, and such implement or weapon shall be forfeited to the Crown.

Being found in a building, &c., for unlawful purpose.

450 Whoever is found in or upon any building or enclosure for any unlawful purpose, and whoever is found in or upon any building or enclosure and fails to give a satisfactory account of himself, shall be punished with imprisonment for a term which may extend to three months, or with a fine not exceeding fifty rupees, or with both.

Loitering about by reputed thief.

451 Whoever, being a reputed thief, loiters or lurks about any public place or any wharf or warehouse or any vessel in any harbour or other water with intent to commit

theft or any other unlawful act, shall be punished with imprisonment of either description for a term which may extend to three months, or with a fine not exceeding fifty rupees, or with both.

CHAPTER XVIII.

(*See No. 13 of 1888 and No. 14 of 1888, section 42.*)

Of Offences relating to Documents and to Property-marks.

Forgery.

452 Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to the Government, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud, or that fraud may be committed, commits forgery.

Making a false document.

453 A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed; or

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed, either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not, know the contents of the document or the nature of the alteration.

Illustrations.

(*a*) A has a letter of credit upon B for rupees 10,000, written by Z. A in order to defraud B, adds a cipher to the 10,000, and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery

(*b*) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.

(*c*) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

(*d*) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

(*e*) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(*f*) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B, and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(*g*) A endorses a promissory note and makes it payable to Z or his order, by writing on the note the words "Pay to Z or his order," and signing the endorsement. B dishonestly erases the words "pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(*h*) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(*i*) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(*j*) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(*k*) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an expressed or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(*a*) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(*b*) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery.

(*c*) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(*d*) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(*e*) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a colour to the transaction writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery.

454 Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Forgery of a record of a court of justice or of a public register of births, &c.

455 Whoever forges a document purporting to be a record or proceeding of or in a court of justice, or a register of birth, baptism, marriage, or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of a valuable security or will.

456 Whoever forges a document which purports to be a valuable security or a will, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment of either description for a term which may extend to twenty years, and shall also be liable to fine.

Forgery for the purpose of cheating.

457 Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

"A forged document."

458 A false document made wholly or in part by forgery is designated "a forged document."

Using as genuine a forged document.

459 Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable under section 456.

460 Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 456, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

461 Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this chapter other than section 456, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a forged record or valuable security or will known to be forged, with intent to use it as genuine.

462 Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in section 455, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 456, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in section 456, or possessing counterfeit marked material.

463 Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in section 456, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in section 456, or possessing counterfeit marked material.

464 Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document other than the documents described in section 456, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

465 Whoever knowingly causes to be transmitted by electric telegraph or tenders to any public officer employed in the electric telegraph department for transmission any false message with intent to defraud, injure, or annoy any person, or to spread any false rumour, which may be detrimental to the Government or the interests of the public, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sending false message by telegraph.

466 Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, injures, or defaces, or attempts to cancel, destroy, injure, or deface, or secretes or attempts to secrete any document which is or purports to be a will, or any valuable security, or any record, register, book, or document kept by any public servant in his capacity as such or by any person in pursuance of any Ordinance or Statute, or commits mischief in respect to such record, register, book, or document, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, &c., of a will.

*Of Property-marks.**

468 A mark used for denoting that movable property belongs to a particular person is called a property-mark.

Property-mark.

470 Whoever marks any movable property or goods, or any case, package, or other receptacle containing movable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked, belong to a person to whom they do not belong, is said to "use a false property-mark."

Using a false property-mark.

471 Whoever uses any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Punishment for using a false property-mark with intent to deceive or injure any person.

472 Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a property-mark used by another with intent to cause damage or injury.

473 Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time

Counterfeiting a property-mark used by a public servant, or any mark used by him to denote

* Offences against trade-marks are now punishable under No. 13 of 1888.

the manufacture, quality, &c., of any property.

or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property-mark.

474 Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property-mark, with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandise were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property-mark.

475 Whoever sells any goods with a counterfeit property-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to or impressed upon any goods or merchandise not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false mark upon any package or receptacle containing goods.

476 Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

477 Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding section.

Defacing any property-mark with intent to cause injury.

478 Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIX.

Of Defamation.

Defamation.

479 Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1.—It may amount to defamation to impute anything to a deceased person if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative, or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a*) A says—"Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exceptions.

(*b*) A is asked who stole B's watch. A points to Z intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(*c*) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

Imputation of any truth which the public good requires to be made or published.

First exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Public conduct of public servants.

Second exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no farther.

Conduct of any person touching any public question.

Third exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no farther.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in

forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Publication of reports of proceedings of courts of justice.

Fourth exception.—It is not defamation to publish a substantially true report of the proceedings of a court of justice, or of the result of any such proceedings.

Explanation.—A police magistrate or other officer holding an inquiry in open court preliminary to a trial in a court of justice, is a court within the meaning of the above section.

Merits of a case decided in a court of justice; or conduct of witnesses and others concerned therein.

Fifth exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a court of justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Illustrations.

(*a*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(*b*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's conduct as a witness.

Merits of a public performance.

Sixth exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no farther.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a*) A person who publishes a book, submits that book to the judgment of the public.

(*b*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*c*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d*) A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(*e*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception, inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh exception.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Censure passed in good faith by a person having lawful authority over another.

Illustration.

A judge censuring in good faith the conduct of a witness, or of an officer of the court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this exception.

Eighth exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Accusation preferred in good faith to a duly authorized person.

Illustration.

If A in good faith accuses Z before a magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Imputation made in good faith by a person for the protection of his interests.

Illustrations.

(*a*) A, a shopkeeper, says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b*) A, a public servant, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Tenth exception.—It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Caution intended for the good of the person to whom it is conveyed or for the public good

480 Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Punishment for defamation.

481 Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

Sale of printed or engraved substance containing defamatory matter.

482 Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XX.

Of Criminal Intimidation, Insult, and Annoyance.

Criminal intimidation.

483 Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested is within this section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation.

Intentional insult with intent to provoke a breach of the peace.

484 Whoever intentionally insults and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State, &c.

485 Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, soldier, or sailor in the army or navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for criminal intimidation.

If threat be to cause death or grievous hurt, &c.

486 Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication.

487 Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment

of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.

Illustration.

A writes an anonymous letter threatening B, and sends it to C, living with B, expecting and believing C would show the letter to B; A is guilty under this section.

Misconduct in public by a drunken person.

488 Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CHAPTER XXI.

Of Unlawful Oaths.

Administering or taking or abetting the administering or taking of an oath to commit an offence.

489 Whoever administers or causes to be administered, or abets the administering or taking of any oath, engagement, or obligation in the nature of an oath, purporting or intending to bind the person taking the same to commit or abet the commitment of any offence, or takes any such oath, engagement, or obligation, if the offence to which the oath, engagement, or obligation relates be punishable with death or imprisonment for twenty years, shall be punished with imprisonment of either description which may extend to twenty years, or with fine, or both, and if the offence is punishable with imprisonment for less than twenty years, shall be punished with such punishment as may be awarded for the offence to which such oath, engagement, or obligation relates.

CHAPTER XXII.

Of Attempts to commit Offences.

Punishment for attempting to commit offences punishable with imprisonment.

490 Whoever attempts to commit an offence punishable by this Code with imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of either description provided for the offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section.

(*b*) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z having nothing in his pocket. A is guilty under this section.

No. 3 of 1883.

(As amended by No. 36 of 1884, No. 1 of 1888, No. 22 of 1890, and No. 27 of 1892.)

An Ordinance for regulating the Procedure of the Courts of Criminal Judicature.

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No. 3 of 1883.

(As amended by No. 36 of 1884, No. 1 of 1888, No. 22 of 1890, and No. 27 of 1892.)

An Ordinance for regulating the Procedure of the Courts of Criminal Judicature.

(See No. 1 of 1886, No. 1 of 1889, and No. 16 of 1889.)

WHEREAS it is expedient to provide a General Criminal Procedure Code for this colony, it is therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

PART I.

CHAPTER I.

Preliminary.

1 This Ordinance shall be called "The Criminal Procedure Code, 1883," and is generally referred to hereinafter as "this Code," and shall come into operation on and from such day subsequent to the confirmation thereof by Her Majesty as may be appointed by order of the Governor in Executive Council proclaimed in the *Government Gazette*.* Short title. Commencement

2 On and from the day when this Ordinance comes into operation the Laws, Ordinances, and Rules of Court mentioned in the first schedule shall be repealed to the extent specified in the third column thereof, but not so as to restore any jurisdiction or form of procedure not then existing or followed or to render unlawful the continuance of any confinement, which is then lawful. Repeal of Ordinances.

2 (1) The repeal of any Law, Ordinance, or Rule of Court shall not affect— Repeal of laws, &c., not to affect offences committed under them. [§ 1, 36 of 1884]

(*a*) The past operation of any Enactment, Law, Ordinance, or Rule of Court hereby repealed, nor anything duly done or suffered under any Law, Ordinance, or Rule of Court hereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any Law, Ordinance, or Rule of Court hereby repealed; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any Law, Ordinance, or Rule of Court hereby repealed; nor

(*d*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on as if any such Law, Ordinance, or Rule of Court had not been repealed, anything in section 511 to the contrary notwithstanding.

* Proclaimed to come into operation on 1st January, 1885.

Interpretation clause.

3 In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or context:

"Complaint."

(*a*) "Complaint" means the allegation made orally or in writing to a police magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence.

"Inquiry."

(*b*) "Inquiry" includes every inquiry conducted under this Code by a police magistrate or a police court.

"Judicial proceeding."

(*c*) "Judicial proceeding" means any proceeding in the course of which evidence is, or may be, legally taken.

"Writing." "Written."

(*d*) "Writing" and "written" include printing, lithography, photography, engraving, and every other mode in which words or figures can be expressed on paper or on any substance.

"Supreme Court."

(*e*) "Supreme Court," and "court" when applicable to the Supreme Court, means the Supreme Court of the colony of Ceylon for the time being, or the Chief Justice or any judge thereof.

"Attorney-General."

(*f*) "Attorney-General" includes also the Solicitor-General, or any Crown counsel specially authorized by the Attorney-General to represent the Attorney-General.

"Pleader."

(*g*) "Pleader" used with reference to any proceeding in any court means (1) an advocate; (2) any person authorized under any law for the time being to practice in such court.

"Police station."

(*h*) "Police station" means any post declared generally or specially by the Government to be a police station; an "officer in charge of a police station" includes, when the officer in charge of a police station is absent therefrom, or unable from illness to perform his duties, the police officer present at the police station who is next in rank to such officer.

"Police officer."

(*i*) "Police officer" includes the Inspector-General, superintendents, inspectors, sergeants, and constables of police, as well as every fiscal, his deputies and officers, and all village headmen and peace officers.

"Offence."

(*j*) "Offence" means any act or omission made punishable by any law for the time being in force.

"Cognizable offence."

(*k*) "Cognizable offence" means an offence for, and "cognizable case" means a case in, which a police officer may, in accordance with the second schedule, or under any law for the time being in force, arrest without warrant.

"Non-cognizable offence."

(*l*) "Non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police officer may not arrest without warrant.

(*m*) "Bailable offence" means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force, and "non-bailable offence" means any other offence. "Bailable offence."

(*n*) "Fine" includes any fine, pecuniary forfeiture, or compensation adjudged upon any conviction of any crime or offence, or for the breach of any Ordinance, by any court of the colony. "Fine."

(*o*) "Chapter" means a chapter of this Code, and "schedule" means a schedule hereto annexed. "Chapter." "Schedule."

(*p*) "Place" includes also a house, building, tent, and vessel. "Place."

(*q*) Words which refer to acts done extend also to illegal omissions; and Words referring to acts include illegal omissions.

(*r*) All words and expressions used herein and defined in the Ceylon Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code. Words to have same meaning as in Penal Code.

4 All offences under the Ceylon Penal Code shall be inquired into and tried according to the provisions hereinafter contained; and all offences under any other law shall be inquired into and tried according to the same provisions, subject however to any enactment for the time being in force regulating the manner or place of inquiring into or trying such offences. Trial of offences under Penal Code. Trial of offences against other laws.

PART II.

CHAPTER II.

Jurisdiction of Criminal Courts.

A.—*Of Courts generally.*

5 The courts for the ordinary administration of criminal justice within this colony shall continue as heretofore to be as follows: Class of criminal courts.

(1) The Supreme Court.
(2) District courts.
(3) Police courts.

6 The place in which any criminal court is held for the purpose of inquiry into, or trying, any offence, shall be deemed an open and public court, to which the public generally may have access so far as the same can conveniently contain them. Courts to be open.

But the presiding judge or magistrate may, if he thinks fit, order, at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in the room or building used by the court.

Criminal jurisdiction of Supreme Court.

7 The Supreme Court and every judge thereof shall, as heretofore and under and subject to the provisions of this Code, exercise an original criminal jurisdiction over all offences committed throughout this colony, and for hearing, trying, and determining all prosecutions which shall be commenced therein against any person for or in respect of any such offences; and also and subject to the provisions of this Code, a criminal appellate jurisdiction for the correction of all errors which shall be committed by district and police courts, and sole and exclusive cognizance by way of appeal in all criminal causes, suits, actions, prosecutions, matters, and things of which such district courts and police courts or any of them may have taken cognizance by way of original jurisdiction.

Criminal jurisdiction of district courts.

8 Every district court, including those to be hereafter established, shall have, as heretofore and subject to the provisions of this Code, cognizance of and full power and authority, and is hereby required to hear, try, and determine all suits and prosecutions instituted for or in respect of any offences committed wholly or in part within the district to which such court may belong, and which offences by this Code, or by any law in force in the colony, are made cognizable by a district court.

Criminal summary jurisdiction of police courts.

9 Every police court, including those to be hereafter established, shall have, as heretofore and under and subject to the provisions of this Code, full power and authority, and is hereby required to hear, try, determine, and dispose of in a summary way all suits or prosecutions for offences committed wholly or in part within its local jurisdiction, which offences, by this Code or any law in force in this colony, are made cognizable by a police court.

And also summary jurisdiction as aforesaid in case of breach of any enactment made for the protection of the revenue, or of any enactment making penal any act, not in itself an offence, and which would otherwise not be cognizable by a police court by reason of the amount of punishment which may be inflicted in respect thereof, if a certificate shall be presented to such police court signed by the Attorney-General, to the effect that he is content that such offence or act shall be tried by such police court.

Jurisdiction to inquire into the commission of offences.

And also jurisdiction to inquire into, subject to and as provided for by this Code, all offences committed, or alleged to have been committed within the local jurisdiction of such courts, or into which jurisdiction is by this Code given to such courts to inquire, and to summon and examine all witnesses touching such offences, and to summon and apprehend all criminals and offenders, and deal with them according to law.

To issue search warrants.

To require sureties for the peace.

And to issue warrants to search or to cause to be searched all places wherein any stolen goods, or any goods, articles, or things with which or in respect of which any offence has been committed, are alleged to be kept or concealed, and to require persons to furnish security for the peace, or for their good behaviour according to law.

And also jurisdiction, under and subject to this Code, to inquire into all cases in which any person shall die in any prison or asylum, or shall come to his death by violence or accident, or when death shall have occurred suddenly, or when the body of any person shall be found dead without its being known how such person came by his death.

To inquire into cases of sudden or accidental death.

The Governor may from time to time appoint any justice of the peace to be an unofficial police magistrate for any district or districts, and any justice of the peace so appointed shall thereupon have all the powers and authority by this Code vested in police courts, save and except the power and authority to take proceedings with regard to, or to hear, try, or determine any offence which by this Code or by any law of this colony is summarily triable before a police court.

Unofficial police magistrates

Provided, however, that nothing herein contained shall be held to give a police court summary jurisdiction to hear or determine any suit or prosecution for or in respect of any offence over which any village tribunal has exclusive jurisdiction under any special law.

Proviso saving jurisdiction of village tribunals.

CHAPTER III.

*Powers of Courts.**

10 All and every the powers, whether of a judicial or executive nature, which by any law of this colony are now vested in a justice of the peace, are hereby conferred upon, and shall hereafter be discharged by a police magistrate within his local jurisdiction.

Powers of justice of the peace to devolve on police magistrates.

11 Subject to the other provisions of this Code, any offence under the Ceylon Penal Code may be tried by the Supreme Court or by any other court by which such offence is shown in the seventh column of the second schedule to be triable.

Offences under Penal Code, or

12 Any offence under any other law shall, when any court is mentioned in this behalf in such law, be tried by such court. When no court is mentioned it may be tried by the Supreme Court, or by any other court mentioned in this Code: Provided that—

Offences under other laws.

(*a*) No district court shall try any such offence which is punishable with imprisonment for a term which may exceed two years.

(*b*) Except as hereinafter provided, no police court shall try any offence which is punishable with imprisonment for a term which may exceed six months.

13 No district court shall take cognizance of any offence as a court of original criminal jurisdiction unless the accused person has been committed for trial by a police court duly empowered in that behalf, or unless the case has been transferred to it from some other court for trial, by order of the Supreme Court.

District courts not to have original criminal jurisdiction.

* For further "Powers of Courts" see "The Courts Ordinance, 1889."

Sentence which Supreme Court may pass.

14 The Supreme Court may pass any sentence authorized by law.

Sentences which district courts may pass.

15 A district court may pass any of the following sentences:

(*a*) Imprisonment of either description, for a term not exceeding two years.

(*b*) Fine, not exceeding one thousand rupees.

(*c*) Whipping.

(*d*) Any lawful sentence combining any of the sentences which it is authorized by law to pass.

Sentences which police courts may pass.

16 A police court may pass any of the following sentences:

(*a*) Imprisonment of either description, for a term not exceeding six months.

(*b*) Fine, not exceeding one hundred rupees.

(*c*) Whipping, if the offender is under sixteen years of age.

(*d*) Any lawful sentence combining any of the sentences which it is authorized by law to pass.

Power of district or police courts to sentence to imprisonment in default of payment of fine. [§ 1, 22 of 1890]

17 (1) A district or police court may award such term of imprisonment in default of payment of a fine as is authorized by law in case of such default. Provided that the term is not in excess of the court's powers under this Code.

(2) If no term of imprisonment in case of default of payment of a fine is specified in any Ordinance in respect of an offence which is punishable by fine only, a district or police court may direct the offender to be imprisoned in accordance with the provisions of section 63 of the Ceylon Penal Code.

(3) In no case decided by a district or police court, where imprisonment has been awarded as part of the substantive sentence, shall the period of imprisonment awarded in default of payment of the fine exceed one-fourth of the period of imprisonment which such court is competent to inflict as punishment for the offence, otherwise than as imprisonment in default of payment of the fine.

(4) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the court under sections 15 or 16.

Sentence in case of conviction for several offences at one trial.

18 When a person is convicted at one trial of any two or more distinct offences, the court may sentence him for such offences to the several punishments prescribed therefor which such court is competent to inflict; such punishments, when consisting of imprisonment, to commence the one after the expiration of the other, in such order as the court may direct.

It shall not be necessary for a police court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of one single offence, to send the offender for trial before a superior court.

Provided as follows:

(*a*) Whenever in any district the duties of police magistrate and district judge are performed by one and the same person under the authority of the Governor, a commitment from the police court of such magistrate to the district court of which he shall be judge shall not be held bad on that ground only, provided the accused shall have consented to be tried before such district judge.

Committing magistrate not to try offenders in his capacity of district judge without offender's consent.

(*b*) In no case shall such person be sentenced to imprisonment for a longer period than fourteen years.

Maximum term of punishment.

(*c*) If the case is tried by a district or police court, the aggregate punishment shall not exceed twice the amount of punishment which such court, in the exercise of its ordinary jurisdiction, is competent to inflict.

For the purpose of appeal, aggregate sentences passed under this section, in case of convictions for several offences at one trial, shall be deemed to be a single sentence.

PART III.

GENERAL PROVISIONS.

CHAPTER IV.

Of Aid and Information to the Magistrates and Police, and Persons making Arrests.

21 Every person is bound to assist a police magistrate or a police officer reasonably demanding his aid—

Public when to assist magistrates and police.

(*a*) In the taking of any other person whom such magistrate or police officer is authorized to arrest.

(*b*) In the prevention of a breach of the peace, or of any injury attempted to be committed to any public property.

(*c*) In the suppression of a riot or an affray.

22 When a warrant is directed to a person other than a police officer, any other person may aid in the execution of such warrant if the person to whom the warrant is directed be near at hand and acting in the execution of his warrant.

Aid to person other than police officer executing warrant.

23 Every person aware—

Public to give information of certain offences.

Of the commission of, or the intention of any other person to commit, any offence punishable under the following sections of the Ceylon Penal Code, namely, 114, 115, 116, 117, 118, 119, 120, 121, 122, 126, 296, 297, 371, 380, 381, 382, 383, 384, 418, 419, 435, 436, 442, 443, 444, 445, and 446:

Of any sudden or unnatural death, or death by violence, or of any death under suspicious circumstances, or of the body of any person being found dead without it being known how such person came by death,

shall, in the absence of reasonable excuse,—the burden of proving which shall lie upon the person so aware,—forthwith give information to the nearest police court, or to the officer in charge of the nearest police station, or to a police officer or the headman of the nearest village, of such commission or intention, or of such sudden, unnatural, or violent death or death under suspicious circumstances, or of the finding of such dead body.

Police officer bound to report certain matters.

24 Every police officer shall forthwith communicate to the nearest police magistrate any information which he may have or obtain respecting—

(*a*) The commission of or intention to commit any offence within the local jurisdiction in which he is empowered to act;

(*b*) The occurrence therein of any sudden or unnatural death, or of any death under suspicious circumstances;

(*c*) The finding of the dead body of any person without it being known how such person came by death.

CHAPTER V.

Of Arrest, Escape, and Retaking.

A.—*Arrest generally.*

Arrest how made.

25 In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest.

If such person forcibly resist the endeavour to arrest him, or attempt to evade the arrest, such officer or other person may use all means necessary to effect the arrest.

Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death.

Search of place entered by person sought to be arrested.

26 If any person acting under a warrant of arrest, or any police officer having authority to arrest, has reason to believe that any person to be arrested has entered into or is within any place, the person residing in or in charge of such place shall, on demand of such person acting as aforesaid, or such police officer, allow him free ingress thereto and afford all reasonable facilities for a search therein.

Procedure where ingress not obtainable.

27 If ingress to such place cannot be obtained under the preceding section, it shall be lawful in any case for a person acting under a warrant, and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police

officer to enter such place and search therein, and in order to effect an entrance into such place to break open any outer or inner door of any place, whether that of the person to be arrested or of any other person, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Power to break open doors and windows for purposes of liberation.

28 Any police officer, or other person authorized to make an arrest, may break open any outer or inner door or window of any place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

No unnecessary restraint.

29 The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Search of persons arrested.

30 Whenever a person is arrested by a police officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail ; and

Whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail or is unable to furnish bail ;

the officer making the arrest, or when the arrest is made by a private person, the police officer to whom he hands over the person arrested, may search such person, and place in safe custody all articles other than necessary wearing apparel found upon him.

Mode of searching women.

31 Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

Power to seize offensive weapons.

32 The officer or other person making any arrest under this Code, may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the court or officer before which or whom the officer or person making the arrest is required by law to produce the person arrested.

B.—*Arrest without a Warrant.*

When police may arrest without warrant.

33 Any police officer may, without an order from a magistrate and without a warrant, arrest—

First.—Any person who has been concerned in any cognizable offence, or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned ;

Secondly.—Any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house-breaking ;

Thirdly.—Any person who has been proclaimed as an offender ;

Fourthly.—Any person in whose possession anything is found which may reasonably be suspected to be stolen property, and who may reasonably be suspected of having committed an offence with reference to such thing ;

Fifthly.—Any person who obstructs a police officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

Sixthly.—Any person reasonably suspected of being a deserter from Her Majesty's army or navy;

Seventhly.—Any person found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence;

Eighthly.—Any person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

Ninthly.—Any person who is by repute an habitual robber, house-breaker, or thief, or an habitual receiver of stolen property, knowing it to be stolen, or who by repute habitually commits extortion, or in order to the committing extortion habitually puts, or attempts to put, persons in fear of injury.

Nothing in this section shall be held to interfere with or modify the operation of any other law empowering a police officer to arrest without a warrant.

Refusal to give name and residence.

34 When any person in the presence of a police officer commits, or is accused of committing, a non-cognizable offence, and refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such police officer in order that his name or residence may be ascertained, and he shall within twenty-four hours from the arrest, exclusive of the time necessary for the journey, be taken before the nearest police court, unless before that time his true name and residence are ascertained, in which case such person shall be forthwith released on his executing a bond for his appearance before a police court if so required.

Pursuit of offenders into other jurisdictions.

35 For the purpose of arresting any person whom he has power to arrest without a warrant, a police officer may pursue any such person into any part of this colony.

Arrest by private persons. Procedure on such arrest.

36 Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or who has been proclaimed as an offender, and shall without unnecessary delay make over the person so arrested to the nearest police officer, or in the absence of a police officer take such person to the nearest police station. If there is reason to believe that such person comes under the provisions of section 33, a police officer shall re-arrest him. If there is reason to believe he has committed a non-cognizable offence, and he refuses on the demand of a police officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 34. If there is no reason to believe that he has committed any offence he shall be at once discharged.

37 A police officer making an arrest without warrant shall, without unnecessary delay, and subject to the provisions herein contained as to bail, take or send the person arrested before a police court having jurisdiction in the case.

How person arrested is to be dealt with.

38 No police officer shall detain in custody a person arrested without a warrant for a longer period than, under all the circumstances of the case, is reasonable; and such period shall not exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the police court.

Person arrested not to be detained more than twenty-four hours.

39 Officers in charge of police stations shall report to the police court of their respective districts the cases of all persons arrested without warrant within the limits of their respective stations, and whether such persons have been admitted to bail or otherwise.

Police to report arrests.

40 No person who has been arrested by a police officer shall be discharged except on his own bond or on bail or under the special order of a police magistrate.

Discharge of person arrested.

41 When any offence is committed in the presence of a police magistrate within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail, commit the offender to custody.

Offence committed in magistrate's presence.

42 Any police magistrate may at any time arrest, or direct the arrest in his presence within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time, and in the circumstances, to issue a warrant.

Arrest by or in presence of magistrate.

43 If a person in lawful custody escapes, or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place either within or without the jurisdiction where he was so in custody, and deal with such person as he might have done on the original taking.

Power on escape to pursue and retake.

44 The provisions of sections 26, 27, and 28 shall apply to arrests under section 43, although the person making the arrest is not acting under a warrant, and is not a police officer having authority to arrest.

Provisions of sections 26, 27, and 28 to apply to arrests under section 43.

CHAPTER VI.

Of Processes to compel Appearance.

A.—*Summons.*

45 Every summons issued by a court under this Code shall be in writing, in duplicate, and signed by the presiding officer or by the registrar, deputy-registrar, secretary, or chief clerk of such court, as the case may be.

Forms of summons.

Such summons shall ordinarily be served by a fiscal's officer, but the court issuing the summons may, if it see fit, direct it to be served by any other person.

Summons by whom served.

Summons how served.

46 The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Service when person summoned cannot be found.

47 When the person to be summoned cannot, by the exercise of due diligence, be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family or with his servant residing with him.

Procedure when personal service cannot be effected.

48 If the service prescribed in sections 46 and 47 cannot, by the exercise of due diligence, be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides, and thereupon the summons shall be deemed to have been duly served.

Service on government servant.

49 Where the person summoned is in the active service of the Government, the court issuing the summons shall ordinarily send it in duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 46, and shall return it to the court with an endorsement of service.

Proof of service.

50 When a summons issued by a court is served an affidavit of such service purporting to be made before an officer duly authorized to administer an oath or affirmation, or, in the case mentioned in section 49, the endorsement therein mentioned, shall be admissible in evidence, and the statements made therein shall be deemed to be correct, unless and until the contrary is proved.

B.—*Warrant of Arrest.*

Form of warrant of arrest.

51 Every warrant of arrest issued by a court under this Code shall be in writing, signed by the presiding officer.

Continuance of warrant of arrest

Every such warrant shall remain in force until it is cancelled by the court which issued it, or until it is executed.

Court may direct security to be taken.

52 Any court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant, that if such person execute a bond with sufficient sureties for his attendance before the court at a specified time and thereafter until otherwise directed by the court, the officer to whom the warrant is directed shall take such security, and shall release such person from custody.

The endorsement shall state—

(*a*) The number of sureties;

(*b*) The amount in which they and the person for whose arrest the warrant is issued are to be respectively bound;

(*c*) The time at which he is to attend before the court.

Recognizance to be forwarded.

Whenever security is taken under this section, the officer to whom the warrant is directed shall forward the bond to the court.

53 A warrant shall ordinarily be directed to the fiscal of the district, and every fiscal and his deputies, and others his officers, and all headmen and peace officers, are authorized and required to obey, serve, and execute, anywhere within the island, every warrant issued or endorsed by any magistrate of a police court within the local limits respectively for which the above officers have been appointed to act. Every officer of police is hereby authorized to execute such warrant. **Warrants to whom directed.**

54 The court issuing the warrant may direct it to any other person or persons, and such person or persons, or any police officer, may execute the same. **May be directed to any person or persons.**

When a warrant is directed to more officers or persons than one, it may be executed by all or any one or more of them. **Warrants to several persons.**

55 The police officer or other person executing a warrant of arrest shall notify the substance thereof to the person arrested, and, if so required, shall show him the warrant **Notification of substance of warrant.**

56 The police officer or other person executing a warrant of arrest shall (subject to the provisions of section 52 as to security), without unnecessary delay, bring the person arrested before the court before which he is required by law to produce such person. **Person arrested to be brought before court without delay.**

57 A warrant of arrest may be executed at any place in Ceylon. **Where warrant may be executed**

58 When a warrant of arrest is to be executed outside the local limits of the jurisdiction of the court issuing the same, such court may, instead of directing such warrant to the fiscal or other person, forward the same by post or otherwise to any police court within the local limits of the jurisdiction of which it is to be executed. **Warrant forwarded to court for execution outside jurisdiction.**

A magistrate of the police court to which the warrant is so forwarded shall endorse his name thereon, and, if practicable, cause it to be executed within the local limits of his jurisdiction.

58 (1) Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the magistrate within the local limits of whose jurisdiction a warrant is to be executed will prevent such execution, the magistrate issuing the warrant may, if he sees fit so to do, direct the warrant specially to any person; and a warrant so specially directed shall have effect, and may lawfully be executed by such person, without such endorsement as aforesaid anywhere within the island. **Warrants specially directed may be executed anywhere within the island without endorsement.** [§ *17, 1 of 1888*]

Provided always that upon the execution of such warrant the provisions of sections 60 and 61 shall apply. **Proviso.**

(2) Any warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed. **Warrant directed to police officer.** [§ *18, 1 of 1888*]

59 When a warrant directed to a fiscal is to be executed beyond the local limits of the district of such fiscal, he shall endorse it to a fiscal of the district within the limits of which the warrant is to be executed, and shall thereupon **Warrant directed to fiscal for execution**

outside jurisdiction.

forward the same by post or otherwise to such fiscal, who, upon receipt thereof, shall cause such warrant to be executed within the local limits of his district, in the same way as if it had been originally directed to him.

Procedure on arrest of person against whom warrant is issued.

60 When a warrant of arrest is executed outside the local limits of the jurisdiction of the court by which it was issued, the person arrested shall, unless the court which issued the warrant is within twenty miles of the place of arrest, or is nearer than the police court within the local limits of the jurisdiction of which the arrest was made, or unless security be taken under section 52, be carried before such last-mentioned police court.

Procedure by police court before whom person arrested is brought.

61 Such latter police court or a magistrate thereof shall, if the person arrested appears to be the person intended by the court which issued the warrant, direct his removal in custody to such last-mentioned court; or if the offence be bailable, and the person arrested be ready and willing to give bail to the satisfaction of the court or magistrate before whom he shall have been brought, or a direction has been endorsed under section 52 on the warrant, and such person is ready and willing to give the security required by such direction, such last-mentioned court or magistrate shall take such bail or security, as the case may be, and forward the bond to the court which issued the warrant.

Nothing in this section shall be deemed to prevent a police officer from taking security under section 52.

C.—*Proclamation and Attachment.*

Proclamation for person absconding.

62 If any court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself, so that such warrant cannot be executed, such court may publish a written proclamation requiring him to appear at a specified place and at a specified time, not less than thirty days from the date of publishing such proclamation.

The proclamation shall be published as follows:

(*a*) It shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;

(*b*) It shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides, or to some conspicuous place of such town or village; and

(*c*) A copy thereof shall be affixed to some conspicuous part of the court-house.

A statement by the court issuing the proclamation, to the effect that the proclamation was duly published on a specified day, shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

Attachment of property of person absconding.

63 The court may, after issuing a proclamation under section 62, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.

Such order shall authorize the attachment of any property belonging to such person within the local jurisdiction of the court by which it is made; and it shall authorize the attachment of any property belonging to such person without such jurisdiction, when endorsed by the judge of the district court or police magistrate within whose jurisdiction such property is situate.

If the property ordered to be attached be debts or other movable property, the attachment under this section shall be made—

(*a*) By seizure; or

(*b*) By the appointment of a receiver; or

(*c*) By an order in writing prohibiting the delivery of such property to the proclaimed person, or to any one on his behalf; or

(*d*) By all or any two of such methods as the court thinks fit.

If the property ordered to be attached be immovable, the attachment under this section shall, in the case of land paying revenue to Government, be made through the government agent of the province in which the land is situate, and in all other cases—

(*e*) By taking possession; or

(*f*) By the appointment of a receiver; or

(*g*) By an order in writing prohibiting the payment of rent or delivery of property to the proclaimed person, or to any one on his behalf; or

(*h*) By all or any two of such methods as the court thinks fit.

The powers, duties, and liabilities of a receiver appointed under this section shall be the same as those of a receiver appointed in a civil proceeding.

If the proclaimed person does not appear within the time specified in the proclamation, the property under attachment shall be at the disposal of Government, but it shall not be sold until the expiration of six months from the date of the attachment, unless it is subject to speedy and natural decay or the court considers that the sale would be for the benefit of the owner, in either of which cases the court may cause it to be sold whenever it thinks fit.

Restoration of attached property.

64 If, within one year from the date of the attachment, any person whose property is or has been at the disposal of Government under the last paragraph of section 63 appears voluntarily, or is apprehended and brought before the court by whose order the property was attached, and proves to the satisfaction of such court that he did not abscond or conceal himself for the purpose of avoiding execution of the warrant, and that he had not such notice of the proclamation as to enable him to attend within the time specified therein, such property, or if the same has been sold, the net proceeds of the sale, or if part only thereof has been sold, the net proceeds of the sale and the residue of the property, shall, after satisfying thereout all costs incurred in consequence of the attachment, be delivered to him.

D.—*Other Rules regarding Processes.*

Issue of warrant in lieu of or in addition to summons.

65 A court may, in any case in which it is empowered by this Code to issue a summons for the appearance of any person other than a juror or assessor, issue, after recording its reasons in writing, a warrant for his arrest :

(*a*) If either before the issue of summons or after the issue of the same, but before the time fixed for his appearance, the court sees reason to believe that he has absconded, or will not obey the summons ; or

(*b*) If at such time he fails to appear, and the summons is proved to have been duly served in time to admit of his appearng in accordance therewith, and no reasonable excuse is offered for such failure.

Power to take bond for appearance.

66 When any person for whose appearance or arrest the officer presiding in any court is empowered to issue a summons or warrant is present in such court, such officer may require such person to execute a bond, with or without sureties, for his appearance in such court.

Arrest on breach of bond for appearance.

67 When any person who is bound by any bond taken under this Code to appear before a court does not so appear, the officer presiding in such court may issue a warrant directing that such person be arrested and produced before him.

Provisions in this chapter to be generally applicable to summonses and warrants of arrest.

68 The provisions contained in this chapter relating to a summons and warrant, and their issue, service, and execution, shall, so far as may be, apply to every summons and every warrant of arrest issued under this Code.

CHAPTER VII.

Of Processes to compel the production of Documents and other Movable Property, and for the discovery of Persons wrongfully confined.

A.—*Summons to Produce.*

Summons to produce document or other thing.

69 Whenever any court considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial, or other proceeding under this Code, by or before such court, such court may issue a summons to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it at the time and place stated in the summons.

Any person required under this section merely to produce a document or other thing, shall be deemed to have complied with the requisition if he cause such document or thing to be produced instead of attending personally to produce the same.

Nothing in this section shall be deemed to affect the provisions of the Ordinance 9 of 1852, or 12 of 1864, or to apply to any book, letter, post card, telegram, or other document in the custody of the postal or telegraph authorities, or in any public office, or in charge of any public officer.

Procedure as to letters and telegrams, &c.

70 If any such book, letter, post card, telegram, or other document is, in the opinion of the Supreme Court, wanted for the purpose of any investigation, inquiry, trial, or other proceeding under this Code, the Supreme Court may require the public officer, postal or telegraph authorities, as the case may be, to deliver such document to such person as such court directs.

If any such document is, in the opinion of any district judge or police magistrate, wanted for any such purpose, he may require the public officer, postal or telegraph authorities, as the case may be, to cause search to be made for and to detain such document pending the orders of the Supreme Court.

B.—*Search Warrants.*

When search warrant may be issued.

71 Where any court has reason to believe that a person to whom a summons under section 69, or a requisition under section 70, paragraph 1, has been or might be addressed, will not or would not produce the document or other thing as required by such summons or requisition;

Or where such document or other thing is not known to the court to be in the possession of any person;

Or where the court considers that the purposes of any inquiry, trial, or other proceeding under this Code will be served by a general search or inspection:

It may issue a search warrant; and the person to whom such warrant is directed may search or inspect in accordance therewith, and the provisions hereinafter contained.

Nothing herein contained shall authorize any court, other than the Supreme Court, to grant a warrant to search for a document in the custody of a public officer, or of the postal or telegraph authorities.

Power to restrict warrant.

72 The court may, if it thinks fit, specify in the warrant the particular place, or part thereof, to which only the search or inspection shall extend; and the person charged with the execution of such warrant shall then search or inspect only the place or part so specified.

Search of house suspected to contain stolen property, forged documents, &c.

73 If a magistrate of a police court, upon information, and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property;

Or for the deposit, or sale, or manufacture, of forged documents, false seals, or counterfeit stamps or coin, or instruments or materials for counterfeiting coin or stamps, or for forging;

Or that any stolen property, forged documents, false seals, or counterfeit stamps or coin, or instruments or materials used for counterfeiting coin or stamps, or for forging, are concealed, kept, or deposited in any place ;

He may, by his warrant, authorize the person to whom it is directed—

(*a*) To enter, with such assistance as may be required, such place ; and

(*b*) To search the same in manner specified in the warrant ; and

(*c*) To take possession of any property, documents, seals, stamps, or coins therein found which he reasonably suspects to be stolen, unlawfully obtained, forged, false, or counterfeit, and also of any such instruments and materials as aforesaid ; and

(*d*) To convey such property, documents, seals, stamps, coins, instruments, or materials before a police magistrate, or to guard the same on the spot until the offender is taken before a police magistrate, or otherwise to dispose thereof in some place of safety ; and

(*e*) To take into custody and carry before a police magistrate every person found in such place who appears to have been privy to the deposit, sale, or manufacture, or keeping of any such property, documents, seals, stamps, coins, instruments, or materials, knowing or having reasonable cause to suspect the said property to have been stolen, or otherwise unlawfully obtained, or the said documents, seals, stamps, coins, instruments, or materials to have been forged, falsified, or counterfeited, or the said instruments or materials to have been or to be intended to be used for counterfeiting coin or stamps, or for forging.

Procedure on search warrant to be executed without the jurisdiction.

74 When it is necessary for a search warrant to be executed out of the local limits of the jurisdiction of the police court by which it was issued, a magistrate of a police court within the local limits of the jurisdiction of which the warrant is to be executed shall endorse his name thereon.

Such endorsement shall be sufficient authority for the police officer charged with the execution of the warrant to execute the same within the local limits of the said last-mentioned jurisdiction.

Procedure on search warrant outside jurisdiction where speedy execution is necessary.

75 Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of a magistrate of the police court within the local limits of the jurisdiction of which the warrant is to be executed will prevent the discovery of the thing for which search is to be made, the police officer, or other person charged with the execution of the warrant, may execute the same in any place beyond the local limits of the jurisdiction of the police court by which it was issued, without the endorsement of a court within the local limits of the jurisdiction of which that place is situate.

76 Whenever it appears necessary, a police magistrate may, by his warrant, order search to be made in a place out of the local limits of the jurisdiction of his court, and may direct that the warrant be executed either after, or without, obtaining the endorsement of a police magistrate within the jurisdiction of whose court the search is to be made.

When necessary, police magistrate may order search outside jurisdiction without obtaining endorsement of warrant.

When a police magistrate issues a warrant under this section, he shall send information of his having done so to the police court within the local limits of the jurisdiction of which the place to be searched is situated.

77 A police magistrate issuing a search warrant to be executed in any place out of the local limits of the jurisdiction of his own court, may direct the warrant to the magistrate of the police court within the local limits of the jurisdiction of which such place is situated, and may send the same to him by post.

Warrant may be directed to magistrate of another jurisdiction.

On receipt of such warrant by the police magistrate to whom it is directed, he shall endorse his name thereon, and enforce its execution in the same manner as if it had been originally issued by himself.

78 When, in the execution of a search warrant at any place beyond the local limits of the jurisdiction of the court which issued the same, any of the things for which search is made are found, such things, together with a list of the same, prepared under the provisions hereinafter contained, shall be immediately taken before the court issuing the warrant, unless such place is nearer to the police court having local jurisdiction therein ; in which case the list and things shall be immediately taken before such last-mentioned court, and unless there be good cause to the contrary, such last-mentioned court shall make an order authorizing them to be taken to the court issuing the warrant.

Disposal of things found in search beyond jurisdiction.

C.—*Discovery of Persons wrongfully confined.*

79 If any magistrate of a police court has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search warrant; and the person to whom such warrant is directed may search for the person so confined, and such search shall be made in accordance therewith ; and the person if found shall be immediately taken before such magistrate, who shall make such order as in the circumstances of the case seems proper.

Search for persons wrongfully confined.

D.—*General Provisions relating to Searches.*

80 The provisions of sections 22, 51, 53, 54, and 57 shall, so far as may be, apply to all search warrants issued under section 71, section 73, or section 79.

Direction, &c., of search warrants.

81 Whenever any place liable to search or inspection under this chapter is closed, any person residing in or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto and afford all reasonable facilities for a search therein.

Persons in charge of closed place to allow search.

If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided by section 27.

Officer to make list of things seized. [§ 2, 22 of 1890]

82 (1) The officer or other person executing the search warrant shall make a list of all things seized in the course of the search, and of the places in which they are respectively found, and shall sign such list.

Occupant of place searched may attend.

(2) The occupant of the place searched, or some person on his behalf, shall in every instance be permitted to attend during the search, and a copy of the list prepared under this section, signed by the person executing the warrant, shall be delivered to such occupant or person at his request.

E.—*Miscellaneous.*

Power of court to impound document produced.

83 Any court may, if it thinks fit, impound any document or other thing produced before it under this Code.

Search warrants may be endorsed by police officer.

84 A search warrant directed or endorsed to a police officer may, if he is not able to proceed in person, be executed by any other police officer.

In such case the name of such police officer shall be endorsed upon the warrant by the officer to whom it is directed or endorsed.

Magistrate issuing search warrant may attend at its execution.

85 The police magistrate by whom a search warrant is issued may attend personally, for the purpose of seeing that the warrant is duly executed.

Magistrate may direct search in his presence.

86 Any magistrate of a police court may orally direct a search to be made in his presence of any place for the search of which he is competent to issue a search warrant.

PART IV.

PREVENTION OF OFFENCES.

CHAPTER VIII.

Of Security for keeping the Peace and for Good Behaviour.

A.—*Security for keeping the Peace on Conviction.*

Security for keeping the peace on conviction.

87 Whenever any person accused of rioting, assault, or other breach of the peace, or of abetting the same, or of assembling armed men or taking other unlawful measures with the evident intention of committing the same, or any person accused of committing criminal intimidation by threatening injury to person or property, is convicted of such offence, and the court before which such person is convicted is of opinion that it is necessary to require such person to execute a bond for keeping the peace:

Such court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period in each instance as it thinks fit to fix, not exceeding six months if the sentence or order be by a police court, or two years if the sentence or order be by a district court.

If the conviction is set aside, on appeal or otherwise, the bond so executed shall become void.

B.—*Security for keeping the Peace in other Cases and Security for Good Behaviour.*

Security for keeping the peace in other cases.

88 Whenever a police magistrate receives information that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, within the local limits of the jurisdiction of the police court of such magistrate, or that there is within such limits a person who is likely to commit a breach of the peace, or do any wrongful act as aforesaid in any place beyond such limits, the police magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with or without sureties, for keeping the peace for such period, not exceeding six months, as the magistrate thinks fit to fix.

Procedure where district court suspects an offence to have been committed, &c.

89 Whenever a district court has reason to believe that any person is likely to commit a breach of the peace, or to do any wrongful act that may probably occasion a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by detaining such person in custody, such court may issue a warrant for his arrest (if he is not already in custody or before the court) and may send him before a police magistrate empowered to deal with the case under section 88.

A police magistrate before whom a person is sent under this section may, in his discretion, detain such person in custody until the completion of the inquiry hereinafter prescribed.

Security for good behaviour from suspected persons and vagrants, &c.

90 Whenever a police magistrate receives information—

(*a*) That any person is taking precautions to conceal his presence, within the local limits of the jurisdiction of the police court of such magistrate, and that there is reason to believe that such person is taking such precautions with a view to committing an offence; or

(*b*) That there is within such limits a person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself;

such magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding six months, as the magistrate thinks fit to fix.

Security for good behaviour from habitual offenders.

91 Whenever a police magistrate receives information that any person, within the local limits of the jurisdiction of the police court of such magistrate, is an habitual robber, house-breaker, or thief, or an habitual receiver of stolen property, knowing the same to have been stolen, or that he habitually commits extortion, or in order to the committing of extortion habitually puts, or attempts to put, persons in fear of injury;

Such magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period, not exceeding six months, as the magistrate thinks fit to fix.

Order to be made.

92 When a police magistrate, acting under section 88, section 90, or section 91, deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character, and class of sureties (if any) required.

Procedure in respect of person present in court.

93 If the person in respect of whom such order is made is present in court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

Summons or warrant in case of person not so present.

94 If such person is not present in court, the police magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is to bring him before the court:

Provided that whenever it appears to such police magistrate, upon the report of a police officer or upon other information (the substance of which report or information shall be recorded by the magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the magistrate may at any time issue a warrant for his arrest.

Copy of order issued under section 92 to accompany summons or warrant.

95 Every summons or warrant issued under section 94 shall be accompanied by a copy of the order made under section 92, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with or arrested under the same.

Power to dispense with personal attendance.

96 The police magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and may permit him to appear by a pleader.

Inquiry as to the truth of information.

97 When an order under section 92 has been read or explained under section 93 to a person present in court, or when any person appears or is brought before a magistrate in compliance with or in execution of a summons or warrant issued under section 94, the magistrate shall proceed to inquire into the truth of the information upon which he has acted, and to take such further evidence as may appear necessary.

Such inquiry shall be made as nearly as may be practicable in the manner hereinafter prescribed for conducting trials in summary cases before police courts, except that no charge need be framed.

For the purposes of this section, the fact that a person is an habitual offender may be proved by evidence of general repute or otherwise.

Order to give security.

98 If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or without sureties, the magistrate shall make an order accordingly.

Provided—

First.—That no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 92.

Secondly.—That the amount of every bond shall be fixed with due regard to the circumstances of the case, and shall not be excessive.

Thirdly.—That when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

Discharge of person informed against.

99 If, on an inquiry under section 97, it is not proved that it is necessary for keeping the peace or maintaining good behaviour, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, the magistrate shall make an entry on the record to that effect, and if such person is in custody only for the purposes of the inquiry, shall release him, or if such person is not in custody shall discharge him.

C.—*Proceedings in all Cases subsequent to Order to furnish Security.*

Commencement of period for which security is required.

100 If any person, in respect of whom an order requiring security is made under section 87 or section 98, is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.

In other cases such period shall commence on the date of such order.

Contents of bond.

101 The bond to be executed by any such person shall bind him to keep the peace, or to be of good behaviour, as the case may be; and, in the latter case, the commission, or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

Power to reject sureties.

102 A magistrate may refuse to accept any surety for good behaviour offered under this chapter on the ground that, for reasons to be recorded by the magistrate, such surety is an unfit person.

Imprisonment in default of security.

103 If any person, ordered to give security under section 87 or section 98, does not give such security on or before the date on which the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned, be committed to prison, or, if he is already in prison, be detained in prison until such period expires, or until, within such period, he gives the security to the court which made the order requiring it, or to the officer in charge of the prison in which the person so ordered is detained.

Simple imprisonment for failure to give security for the peace.

104 Imprisonment for failure to give security for keeping the peace shall be simple.

Rigorous or simple imprisonment for failure to give security for good behaviour.

105 Imprisonment for failure to give security for good behaviour may be rigorous or simple, as the magistrate in each case directs.

Power to release person imprisoned for failing to give security.

106 Whenever any court is of opinion that any person imprisoned for failing to give security under this chapter, whether by the order of such court or a magistrate, or that of his predecessor in office, may be released without hazard to the community, or to any other person, the court may order such person to be discharged.

Police magistrate to report to superior court, and such court may order release.

107 Whenever a police magistrate is of opinion that any person imprisoned for failing to give security under this chapter as ordered by the Supreme Court or a district court, may be released without the hazard mentioned in section 106, such magistrate shall make an immediate report of the case for the orders of the Supreme Court or district court, as the case may be, and such court may, if it thinks fit, order such person to be discharged.

Discharge of sureties.

108 Any surety for the peaceable conduct or good behaviour of another person may at any time apply to a police magistrate to cancel any bond executed under this chapter within the local limits of his jurisdiction.

On such application being made, the magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought before him.

When such person appears or is brought before the police magistrate, such magistrate shall cancel the bond, and shall order such person to give, for the unexpired portion of the term of such bond, fresh security of the same description as the original security. Every such order shall, for the purposes of sections 101, 102, 103, 104, 105, and 106, be deemed to be an order made under section 87 or section 98, as the case may be.

CHAPTER IX.

Unlawful Assemblies.

Assembly to disperse on command of magistrate or police officer.

109 Any police magistrate or police officer may command any unlawful assembly, or any assembly of five or more persons likely to cause a disturbance of the public peace, to disperse, and it shall thereupon be the duty of the members of such assembly to disperse accordingly.

Use of civil force to disperse assembly.

110 If, upon being so commanded, any such assembly does not disperse, or if, without being so commanded, it conducts itself in such a manner as to show a determination not to disperse, any magistrate or police officer of the rank of inspector may proceed to disperse such assembly by force, and may require the assistance of any male person, not being an officer or soldier in Her Majesty's army or a volunteer duly enrolled under the provisions of any law and acting as such, for the purpose of dispersing such assembly, and if necessary arresting and confining the persons who form part of it, in order to disperse such assembly, or that they may be punished according to law.

Use of military force.

111 If any such assembly cannot be otherwise dispersed, and if it is necessary for the public security that it should be dispersed, any government agent or police magistrate who is present, or the Inspector-General of Police, may cause it to be dispersed by military force.

Duty of officer commanding troops required by magistrate to disperse assembly.

112 When a government agent, police magistrate, or the Inspector-General of Police determines to disperse any such assembly by military force, he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's army, or, by direction of the Governor, of any volunteers duly enrolled under the provisions of any law, to disperse such assembly by military force, and to arrest and confine such persons forming part of it as the government agent, police magistrate, or Inspector-General of Police may direct, or as it may be necessary to arrest and confine, in order to disperse the assembly, or to have them punished according to law.

Unnecessary force to be avoided.

Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons.

Power of commissioned military officers to disperse assembly.

113 When the public security is manifestly endangered by any such assembly, and when no government agent, police magistrate, or the Inspector-General of Police can be communicated with, any commissioned officer of Her Majesty's army may disperse such assembly by military force, and may arrest and confine any persons forming part of it, in order to disperse such assembly, or that they may be punished according to law; but if, while he is acting under this section, it becomes practicable for him to communicate with a government agent, police magistrate, or the Inspector-General of Police, he shall do so, and shall thenceforward obey the instructions of the government agent, police magistrate, or Inspector-General of Police, as to whether he shall or shall not continue such action.

Protection against prosecution for acts done under this chapter.

114 No prosecution against any government agent, police magistrate, or the Inspector-General of Police, or any military officer, police officer, soldier, or volunteer, for any act purporting to be done under this chapter, shall be instituted in any criminal court, except with the sanction of the Governor in Executive Council; and

(*a*) No government agent, police magistrate, or police officer acting under this chapter in good faith;

(*b*) No officer acting under section 113 in good faith;

(*c*) No person doing any act in good faith, in compliance with a requisition under section 110 or section 112; and

(*d*) No inferior officer, or soldier, or volunteer, doing any act in obedience to any order which, under military law, he was bound to obey,

shall be deemed to have thereby committed an offence.

CHAPTER X.

Public Nuisances.

Conditional order for removal of nuisance.

115 Whenever a police magistrate considers, on receiving a report or other information, and on taking such evidence (if any) as he thinks fit—

That any unlawful obstruction or nuisance should be removed from any way, harbour, lake, river, or channel which is, or may be, lawfully used by the public, or from any public place; or

That any trade or occupation, or the keeping of any goods or merchandise, by reason of its being injurious to the health or physical comfort of the community, should be suppressed, or removed, or prohibited; or

That the construction of any building, or the disposal of any substance, as likely to occasion conflagration or explosion, should be prevented or stopped; or

That any building is in such a condition that it is likely to fall, and thereby cause injury to persons living or carrying on business in the neighbourhood or passing by, and that in consequence its removal, repair, or support is necessary; or

That any tank, well, or excavation adjacent to any such way or public place should be fenced, in such a manner as to prevent danger arising to the public,

such police magistrate may make a conditional order requiring the person causing such obstruction or nuisance, or carrying on such trade or occupation, or keeping any such goods or merchandise, or owning, possessing, or controlling such building, substance, tank, well, or excavation, within a time to be fixed in the order—

To remove such obstruction or nuisance; or

To suppress or remove such trade or occupation; or

To remove such goods or merchandise; or

To prevent or stop the construction of such building; or

To remove, repair, or support it; or

To alter the disposal of such substance; or

To fence such tank, well, or excavation, as the case may be; or

To appear before himself or some other police magistrate, at a time and place to be fixed by the order, and move to have the order set aside or modified in manner hereinafter provided.

No order duly made by a police magistrate under this section shall be called in question in any civil court.

Explanation.—A "public place" includes also property belonging to the Crown or Colonial Government, and grounds left unoccupied for sanitary or recreative purposes.

Service or notification of order.

116 The order shall, if practicable, be served on the person against whom it is made in manner herein provided for service of a summons.

If such order cannot be so served, it shall be notified by Proclamation published in the *Government Gazette*, and a copy thereof shall be stuck-up at such place or places as may be fittest for conveying the information to such person.

Person to whom order is addressed to obey, or show cause, or claim jury.

117 The person against whom such order is made shall—

(*a*) Perform, within the time specified in the order, the act directed thereby; or

(*b*) Appear in accordance with such order, and either show cause against the same or apply to the police magistrate by whom it was made to appoint a jury, to try whether the same is reasonable and proper.

Consequence of his failing to do so.

118 If such person does not perform such act, or appear and show cause or apply for the appointment of a jury as required by section 117, he shall be liable to the penalty prescribed in that behalf in section 185 of the Ceylon Penal Code, and the order shall be made absolute.

Procedure where he appears to show cause.

119 If he appears and shows cause against the order, the police magistrate shall take evidence in the matter.

If the police magistrate is satisfied that the order is not reasonable and proper, no further proceedings shall be taken in the case.

If the police magistrate is not so satisfied, the order shall be made absolute.

Procedure where he claims a jury.

120 On receiving an application under section 117, to appoint a jury, the police magistrate shall—

(*a*) Forthwith appoint a jury consisting of an uneven number of persons, not less than five, of whom the foreman and one-half of the remaining members shall be nominated by such police magistrate, and the other members by the applicant;

(*b*) Summon such foreman and members to attend at such place and time as the magistrate thinks fit; and

(*c*) Fix a time within which they are to return their verdict.

Procedure where jury finds magistrate's order to be reasonable.

121 If the jury, or a majority of the jurors, find that the order of the magistrate is reasonable and proper as originally made, or subject to a modification which the magistrate accepts, the magistrate shall make the order absolute, subject to such modification (if any).

In other cases no further proceedings shall be taken.

Procedure on order being made absolute.

122 When an order has been made absolute under section 118, section 119, or section 121, the magistrate shall give notice of the same to the person against whom the order was made, and shall further require him to perform the act directed by the order within a time to be fixed in the notice, and inform him that in case of disobedience he will be liable to the penalty provided by section 185 of the Ceylon Penal Code.

Consequence of disobedience to order.

123 If such act is not performed within the time fixed, the police magistrate may cause it to be performed, and may recover the costs of performing it either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of any other movable property of such person within or without the local limits of such magistrate's jurisdiction. If such other property is without such limits, the order shall authorize its attachment and sale when endorsed by the police magistrate within the local limits of whose jurisdiction the property to be attached is found.

No suit shall lie in respect of anything done in good faith under this section.

Procedure on failure to appoint jury or omission to return verdict.

124 If the applicant, by neglect or otherwise, prevents the appointment of the jury, or if from any cause the jury appointed do not return their verdict within the time fixed, or within such further time as the police magistrate may in his discretion allow, the police magistrate may pass such order as he thinks fit, and such order shall be executed in the manner provided by sections 122 and 123.

Injunction pending inquiry.

125 If a police magistrate, making an order under section 115, considers that immediate measures should be taken to prevent imminent danger or injury of a serious kind to the public, he may, whether a jury is to be or has been appointed or not, issue such an injunction to the person against whom the order was made as is required to obviate or prevent such danger or injury.

In default of obedience to injunction, magistrate may take steps.

126 In default of such person forthwith obeying such injunction, the police magistrate may himself use, or cause to be used, such means as he thinks fit to obviate such danger, or to prevent such injury.

No suit shall lie against magistrate.

127 No suit shall lie in respect of anything done in good faith by a police magistrate under section 126.

Magistrate may prohibit continuance or repetition of public nuisances.

128 A police magistrate may order any person not to repeat or continue a public nuisance, as defined in the Ceylon Penal Code or any special or local law.

CHAPTER XI.

Temporary Orders in Urgent Cases of Nuisance.

Power to issue absolute order at once in urgent cases of nuisance.

129 In cases where, in the opinion of a police magistrate, immediate prevention or speedy remedy is desirable, such magistrate may, by a written order stating the material facts of the case, and served in manner provided by section 116, direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, if such magistrate considers that such direction is likely to prevent or tends to prevent obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury to any persons lawfully employed, or danger to human life, health, or safety, or a riot, or an affray.

An order under this section may, in cases of emergency, or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex parte.*

An order under this section may be directed to a particular individual, or to the public generally, when frequenting or visiting a particular place.

Any police magistrate may rescind or alter any order made under this section by himself or by his predecessor in office.

No order under this section shall remain in force for more than two months from the making thereof, unless in cases of danger to human life, health, or safety, or a likelihood of a riot, or an affray, the Government by notification in the *Government Gazette* otherwise directs.

CHAPTER XII.

Preventive Action of the Police.

Police to prevent cognizable offences.

130 Every police officer may interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of any cognizable offence.

Information of design to commit such offences.

131 Every police officer receiving information of a design to commit any cognizable offence, shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Police may arrest without orders or warrant to prevent such offences.

132 A police officer knowing of a design to commit any cognizable offence, may arrest, without orders from a police magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

Prevention of injury to public property.

133 A police officer may, of his own authority, interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury of any public landmark or buoy or other mark used for navigation.

Inspection of weights and measures.

134 Any police officer not below the rank of sergeant may, without a warrant, enter any place for the purpose of inspecting or searching for any weights or measures, or instruments for weighing used or kept therein, whenever he has reason to believe that there are in such place any weights, measures, or instruments for weighing which are false.

If he finds in such place any weights, measures, or instruments for weighing which are false, he may seize the same, and shall forthwith give information of such seizure to a police magistrate having jurisdiction.

PART V.

CHAPTER XIII.

Statements to Magistrates or Police.

No inducement to be offered to induce an accused to make a confession.

135 No police officer or person in authority shall offer, or make or cause to be offered or made, any inducement, threat, or promise to an accused person, sufficient to give such accused person grounds which would appear to him reasonable for supposing that by making a confession he would gain any advantage or avoid any evil of a temporary nature in reference to proceedings against him.

Power to record statements and confessions.

136 Any police magistrate may record any statement or confession made to him at any time before the commencement of an inquiry or trial.

Such statements shall be recorded in such manner as is hereinafter prescribed for recording evidence. Such confessions shall be recorded and signed in the manner provided in section 368, and shall then be forwarded to the police court by which the case is to be inquired into or tried.

No magistrate shall record any such confession unless, upon questioning the person making it, he has reason to believe that it was made voluntarily; and when he records any confession he shall make a memorandum at the foot of such record to the following effect:

> I believe that this confession was voluntarily made. It was taken in my presence and hearing, and was read over to the person making it, and admitted by him to be correct, and it contains a full and true account of the statement made by him.
>
> (Signed) *A. B.*,
> Police Magistrate.

Magistrate may record statements and confessions voluntarily made by an accused person at any stage of an inquiry or trial.
[§ *15, 1 of 1888*]

136 (1) Any police magistrate may record any statement or confession made voluntarily by the accused at any stage of any inquiry or trial, and the same shall be recorded and signed in manner provided in section 136 in respect of statements and confessions made before the commencement of any inquiry or trial. All such first-mentioned statements and confessions, purporting to have been duly recorded and signed in manner aforesaid, shall be admissible in evidence without further proof in any subsequent judicial proceeding, or in any later stage of the same judicial proceeding, subject, however, to the requirements of the first proviso contained in section 473.

PART VI.

PROCEEDINGS IN PROSECUTIONS.

CHAPTER XIV.

Of the Jurisdiction of the Criminal Courts in Inquiries and Trials.

A.—*Place of Inquiry or Trial.*

Ordinary place of inquiry or trial.

137 The trial by a district court of, or the trial of or inquiry by a police court into, the commission of an offence shall ordinarily be made by the district or police court within the local limits of the jurisdiction of which the offence is committed, as is hereinafter explained.

Any district or police court to have jurisdiction over offences committed on territorial waters.

138 Any district or police court within the local limits of the jurisdiction of which an accused may be or be found, shall have jurisdiction respectively in all cases of offences otherwise within their respective jurisdictions, which may have been committed on the territorial waters of the colony.

Accused is triable in district where act is done or consequence ensues.

139 When a person is accused of the commission of any offence, by reason of anything which has been done and of any consequence which has ensued, such offence may be inquired into or tried by any court within the local limits of the jurisdiction of which any such thing has been done, or any such consequence has ensued.

Illustrations.

(*a*) A is wounded within the local limits of the jurisdiction of the police court of X, and dies within those of the police court of Z; the offence of culpable homicide of A may be inquired into by the police court of either X or Z.

(*b*) A is wounded within the local limits of the jurisdiction of the police court of X, and is, during ten days, within the local limits of the jurisdiction of police court Y, and during ten days more within the local jurisdiction of police court Z, unable in the local limits of the jurisdiction of police court Y or Z to follow his ordinary pursuits; the offence of unlawfully causing grievous hurt to A may be inquired into by the police court or tried by the district court of either X, Y, or Z.

(*c*) A is put in fear of injury within the local limits of the jurisdiction of the district court and police court of X, and is thereby induced, within the local limits of the jurisdiction of the district court and police court of Y, to deliver property to the person who put him in fear; the offence of extortion committed on A may be inquired into by the police court and tried by the district court of either X or Y.

Place of trial where act is offence by reason of relation to other offence.

140 When an act is an offence by reason of its relation to any other act which is also an offence, or which would be an offence if the doer were capable of committing an offence, a charge of the first-mentioned offence may be inquired into or tried by a court within the local limits of the jurisdiction of which either act was done.

Illustrations.

(*a*) A charge of abetment may be inquired into or tried either by the court within the local limits of whose jurisdiction the abetment was committed, or by the court within the local limits of whose jurisdiction the offence abetted was committed.

(*b*) A charge of receiving or retaining stolen goods may be inquired into or tried either by the court within the local limits of whose jurisdiction the goods were stolen, or by the court within the local limits of whose jurisdiction any of them were at any time dishonestly received or retained.

(*c*) A charge of wrongfully concealing a person known to have been kidnapped may be inquired into by the police court within the local limits of whose jurisdiction the wrongful concealing, or by the police court within the local limits of whose jurisdiction the kidnapping, took place.

Escape from custody.

141 The offence of having escaped from custody may be inquired into by any police court, or tried by a district court within the local limits of whose jurisdiction the person charged is, or by the court within the local limits of whose jurisdiction the offence was, committed.

Criminal misappropriation and criminal breach of trust.

142 The offence of criminal misappropriation, or of criminal breach of trust, may be inquired into or tried either by the court within the local limits of whose jurisdiction any part of the property, which is the subject of the offence, was received by the accused person, or by the court within the local limits of whose jurisdiction the offence was committed.

Stealing.

143 The offence of stealing anything may be inquired into or tried by a court within the local limits of whose jurisdiction such thing was stolen or was possessed by the thief, or by any person who receives or retains the same knowing or having reason to believe it to be stolen.

Place of inquiry or trial where scene of offence is uncertain.

144 When it is uncertain in which of several local areas an offence was committed ; or,

Or not in one district only.

Where an offence is committed partly in one local area and partly in another ; or

Or where offence is continuing.

Where an offence is a continuing one, and continues to be committed in more local areas than one ; or

Or consists of several acts.

Where it consists of several acts done in different local areas ;

it may be inquired into or tried by a court having jurisdiction over any of such local areas.

Offence committed on a journey.

145 An offence committed whilst the offender is in the course of performing a journey or voyage may be inquired into or tried by a court through or into the local limits of whose jurisdiction the offender or the person against whom, or the thing in respect of which, the offence was committed passed in the course of that journey or voyage.

Offences against railways, post office, telegraphs, and Arms Acts.

146 All offences against the provisions of any law for the time being in force relating to railways, telegraphs, the post office, or arms and ammunition, may be inquired into or tried by any court, whether the offence is stated to have been committed within the local limits of the jurisdiction of such court or not, provided that the offender is found within such local jurisdiction.

147 Whenever any doubt is entertained by a police magistrate as to the police court by which any offence should be inquired into, such magistrate may embody the ascertained facts in the form of a case, and transmit the same to the Attorney-General for his opinion, and the Attorney-General shall thereupon decide in which court the offence shall be inquired into, and such court shall thereupon have jurisdiction to inquire into such offence.

Attorney-General to decide, in case of doubt, district where inquiry or trial shall take place.

148 No sentence or order of any criminal court in the trial of an offence shall be liable to be set aside merely on the ground that the inquiry into the commission of the offence to which the sentence or order relates was made by a police court not empowered under this chapter so to do.

Sentence of criminal court may not be set aside on ground of inquiry being by police court not having jurisdiction.

B.—*Conditions necessary for initiating Proceedings.*

149 No court shall take cognizance—

Prosecution for contempts of lawful authority of public servants.

(*a*) Of any offence punishable under sections 170 to 185 (both inclusive) of the Ceylon Penal Code, except with the previous sanction of the Attorney-General, or on the complaint of the public servant concerned, or of some public servant to whom he is subordinate.

Prosecution for certain offences against public justice.

(*b*) Of any offence punishable under sections 190, 191, 192, 193, 196, 197, 202, 203, 204, 205, 206, 207, and 223 of the same Code, when such offence is committed in, or in relation to, any proceeding in any court, except with the previous sanction of the Attorney-General, or on the complaint of such court.

Prosecution for certain offences relating to documents given in evidence.

(*c*) Of any offence described in section 452, or punishable under sections 459, 463, 464 of the same Code, when such offence has been committed by a party to any proceeding in any court in respect of a document given in evidence in such proceeding, except with the previous sanction of the Attorney-General, or on the complaint of such court.

Nature of sanction necessary.

The sanction referred to in this section may be expressed in general terms, and need not name the accused person ; but it shall, so far as practicable, specify the court or other place in which, and the occasion on which, the offence was committed.

When sanction is given in respect of any offence referred to in this section, the court taking cognizance of the case may frame a charge of any other offence so referred to, which is disclosed by the facts ; no such sanction shall remain in force for more than six months from the date on which it was given.

Prosecution for offences against the State.

150 No court shall take cognizance of any offence punishable under chapter VI. of the Ceylon Penal Code, or punishable under section 288 of the same Code, unless upon complaint made by or with the written authority of the Attorney-General.

Prosecution for defamation.

151 No court shall take cognizance of an offence falling under chapter XIX. of the Ceylon Penal Code, except upon complaint made by direction of the Attorney-General or some person aggrieved by such offence.

CHAPTER XV.

Of the commencement of Proceedings before Police Courts.

Institution of the Inquiry.

Commencement of proceedings by police courts.

152 In the following events (that is to say):

(1) On a complaint being made by any person to a police court that an offence has been committed over which the court has jurisdiction; or

(2) On a formal written report being made to a police court by a police officer to the like effect; or

(3) On information received by the magistrate of a police court which the magistrate considers credible, and from which the magistrate draws the inference that an offence has probably been committed, over which the court has jurisdiction; or

(4) On any person being brought before a police court in custody, accused of having committed an offence; or

(5) Whenever it appears to the Attorney-General that an offence has been committed and he shall by his warrant under his hand require the magistrate of a police court to inquire into the same, and such magistrate shall receive such warrant; or

(6) On notice or information given to a magistrate of a police court which the magistrate considers credible that any person has, within the jurisdiction of the court, committed suicide, or has been killed by another, or by an animal, or by an accident, or has died suddenly, or under circumstances raising a suspicion that some other person has committed an offence in connection with such death; or

(7) On notice given to a magistrate of a police court of the finding of the dead body of a person within the local limits of the jurisdiction of such court, without its being known how such person came by death; or

(8) On notice given to a magistrate of a police court of the death of any person in any prison or asylum;

such police court shall proceed, as the case may be—

(*a*) To try the offender; or

(*b*) To inquire into the matter of the alleged offence, and commit for trial or dispose of otherwise, as is hereinafter prescribed, any accused person; or

(*c*) To inquire into any death so brought under its notice, and to proceed thereon as hereinafter prescribed; or

(*d*) As is hereinafter or by any other law provided.

Complaint may be oral or written.

153 The complaint in the first head, and the information in the third head of section 152 mentioned, may be made either orally or in writing. If made orally, the substance of

the complaint, or the information referred to in the third head, shall be entered by an officer of the court on a separate sheet of paper to be kept in the police court, and the person making the complaint, or giving the information, shall sign the entry so made.

154 If the complaint or information is in writing, it shall be signed by the person making or giving it. **Complaint if written shall be signed.**

155 The complaint or information in writing, and the warrant of the Attorney-General, under the fifth head of section 152, shall be delivered to the police court, and form part of the proceedings. **Complaint and warrant of Attorney-General to be filed**

156 In cases falling under heads (1), (3), and (4) of section 152, the police court shall commence the inquiry by examining the complainant, or informant, or other person or persons professing to be able to speak to the material facts of the case. **Complainant to be examined. [§ 3, 22 of 1890]**

157 In cases falling under heads (6), (7), and (8) of section 152, if the body be forthcoming, the magistrate or person appointed by the Governor under section 195 shall go to the spot where such body is, and commence the inquiry there. **Inquiry into death to be at place where body is.**

158 The statement made, on examination, shall be reduced into writing, and after being read over, and, if need be, interpreted to the person examined, shall be signed by him, and also by the magistrate, and, in cases falling under head (4) of section 152, shall be taken in the presence of the prisoner, and shall be on oath or affirmation. **Examination of complainant to be reduced to writing.**

159 The police court may refuse to proceed further if, after such examination, there is, in the judgment of the police magistrate, no sufficient ground for proceeding, and if the accused be in custody he shall forthwith be discharged. **Police court may refuse to proceed.**

CHAPTER XVI.

Of the Inquiry into Cases which appear not to be triable summarily by Police Court, but triable by a Superior Court.

160 The following procedure shall be observed by police magistrates on inquiry into cases falling under head (5) of section 152, in which the offence is one which is triable only by a superior court; and in all cases falling under heads (1), (2), (3), and (4) of section 152, when it shall appear after examination that the offence is one which the police court has no power to try summarily, but is triable only by a superior court. **Procedure in inquiries preparatory to commitment.**

161 The police magistrate shall appoint a time for the inquiry to begin, and shall ascertain from the complainant or otherwise the names of any persons likely to be acquainted with the facts of the case, and to be able to give evidence for the prosecution, and shall summon any or such of them as he thinks necessary to give evidence before the court. **Police magistrate to appoint time for inquiry.**

Procedure when accused is not in custody.

162 If the accused is not in custody before the police court, the police magistrate shall, if the offence is one for which a summons should issue in the first instance, issue his summons for the attendance of the accused. If the case appears to be one in which a warrant should issue in the first instance, he may issue his warrant, or, if he thinks fit, a summons, for causing the accused to be brought or appear at a certain time before the court.

Nothing in this section shall be deemed to affect the provisions of section 65.

When accused appears, particulars of offence to be stated to him.

163 When the accused appears or is brought before the police magistrate, he shall state to him the particulars of the offence of which he is accused.

Taking of evidence produced.

164 The police magistrate shall, when the accused appears or is brought before him, proceed to hear the complainant (if any), and take, in manner hereinafter provided, all such evidence as—

(*a*) May be produced in support of the prosecution, or on behalf of the accused; or

(*b*) As may be called for by the police magistrate.

Accused may cross-examine witnesses for prosecution.

165 The accused person shall be permitted to cross-examine the complainant and the witnesses for the prosecution. And the accused person, if he so desires, shall also be permitted, when all the evidence on the part of the prosecution has been taken, to examine witnesses for the defence, who may be cross-examined on behalf of the prosecution, and to re-examine them after such cross-examination.

In the absence of complainant accused may be discharged. [§ 4, 22 of 1890]

165 (*a*) If upon any day fixed for the hearing of a case instituted under this chapter upon complaint, the complainant is absent, and the offence is one that may be lawfully compounded, the police magistrate may in his discretion, notwithstanding anything hereinafter contained, at any time before the charge has been framed, discharge the accused.

Police court may summon further witnesses, and re-examine person already examined.

166 The police court may, at any stage of the proceedings, summon and examine any person whose evidence it considers essential to the inquiry, and recall and re-examine any person already examined. And in each of these events the accused person, if he so desires, shall be permitted to cross-examine the witness after the examination by the court, and such witnesses may be re-examined.

Process of compelling attendance of witness.

167 If the complainant, or officer conducting the prosecution, or the accused, applies to the police magistrate to issue process to compel the attendance of any witness, or the production of any document or other thing, the police magistrate shall issue such process, unless for reasons to be recorded by him he deems it unnecessary to do so.

When accused to be discharged. [§ 5, 22 of 1890]

168 (1) When the evidence referred to in section 164, paragraphs (*a*) and (*b*), has been taken, such police magistrate shall, if he finds there are not sufficient grounds for committing the accused for trial, discharge him.

(2) Nothing in this section shall be deemed to prevent a police magistrate from discharging the accused at any previous stage of the case, if for reasons to be recorded by such police magistrate he considers the charge to be groundless.

Explanation.—A discharge under this section is not equivalent to an acquittal, and does not bar the revival of a prosecution for the same offence.

When charge is to be framed.

169 When, upon such evidence being taken, the police magistrate finds that there are sufficient grounds for committing the accused for trial, he shall frame a charge under his hand declaring with what offence the accused is charged.

Charge to be explained and copy furnished to accused gratis.

170 As soon as the charge has been framed it shall be read and explained to the accused, and a copy thereof shall, if he so requires, be given to him free of cost.

Magistrate to ask accused if he wishes to say anything in answer to charge.

171 The magistrate shall then address the accused in these words, or to the like effect:

"Having heard the evidence and the charge, do you wish to say anything in answer to the charge? You are not bound to say anything, but what you do say will be taken down in writing, and may be given in evidence against you at your trial."

Whatever the accused then says in answer thereto shall be taken down in writing, and kept with the proceedings in the case, and shall be dealt with as is hereinafter mentioned.

List of witnesses for defence on trial.

172 The accused shall be required at once to give in, orally or in writing, a list of the persons (if any) whom he wishes to be summoned to give evidence on his trial.

Further list.

173 The police magistrate may, in his discretion, allow the accused to give in a list or further list of witnesses at a subsequent time; and where the accused is committed for trial before the Supreme Court, nothing in this section shall be deemed to preclude the accused from giving, at any time before his trial, a list or further list of the persons whom he wishes to be summoned to give evidence on such trial.

Power of magistrate to examine such witnesses

174 The police magistrate may, in his discretion, summon and examine any witness named in any list given him under the preceding section.

Proceedings to be forwarded to Attorney-General.

175 So soon as the police magistrate shall have found that there are sufficient grounds for committing the accused for trial, and he shall have framed a charge against the accused, he shall forward the proceedings taken in the case to the Attorney-General in order to be instructed by him as to the court to which such commitment shall be made.

Police magistrate to commit to court named by Attorney-General.

176 The police magistrate shall commit to the court to be named for the purpose by the Attorney-General, and to no other.

Accused persons before being committed for trial before the Supreme Court may elect the panel from which the jury for the trial should be taken.

176 (1) Before making any order under section 177, committing the accused for trial before the Supreme Court, the police magistrate shall, in every case, ask the accused to elect from which of the respective panels of jurors to be summoned for attendance and service during the criminal sessions at which the accused is to be tried the jury shall be taken for the trial, and the magistrate shall record such election, if made. The accused person so electing shall thereafter be bound by, and may be tried according to, his election, subject, however, in all cases to the provisions of section 288.

Order of commitment.

177 When the accused, on being required to give in a list under section 172, has declined to do so, or when he has given in such list, and the witnesses (if any) included therein whom the police magistrate desires to examine have been summoned and examined under section 173, the police magistrate may make an order committing the accused for trial, and shall also record briefly the reasons for such commitment.

Police magistrate may summon supplemental witnesses.

178 In cases of commitment for trial, the police magistrate may summon and examine supplementary witnesses after commitment and before the commencement of the trial, and bind them over to appear and give evidence. Such examination shall, if possible, be taken in the presence of the accused person, and in every case a copy of the examination of such witnesses shall be given to him upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council.

Summons to witnesses for defence when accused is committed.

179 When the accused has given in any list of witnesses under section 172, and has been committed for trial, the police magistrate shall summon such of the witnesses included in the list as have not already appeared before himself, to appear before the court, to be bound over as hereinafter provided.

Magistrate may refuse to summon witness, if not satisfied that his evidence is material.

180 If the police magistrate thinks that any witness is included in the list for the purpose of vexation or delay, or of defeating the ends of justice, the police magistrate may require the accused to satisfy him that there are reasonable grounds for believing that the evidence of such witness is material, and if he is not so satisfied may refuse to summon the witness (recording his reasons for such refusal), or may, before summoning him, require such sum to be deposited as such police magistrate thinks necessary to defray the expense of obtaining the attendance of the witness.

Complainants and witnesses shall be bound over to appear.

181 Complainants and witnesses for the prosecution and defence, whose attendance before the superior court is necessary, and who appear before the police magistrate, shall execute before him bonds binding themselves to be in attendance to appear at such court to prosecute or to give evidence, as the case may be; *and the magistrate shall endorse the names of such complainants and witnesses on the backs of the respective commitments.*

Magistrate to endorse names on back of commitment [§ 2, 1 of 1888]

A magistrate may require bail from complainant and witnesses, and may in case of refusal or neglect commit party in default to prison. [§ 12, 1 of 1888]

181 (1) In proceeding under this chapter the police magistrate may at any stage of the inquiry require the complainant or any witness for the prosecution or defence to execute a bond, with or without sureties, for his appearance to prosecute or give evidence, as the case may be, either before himself, or any other police magistrate, or before a superior court; and for the like purpose it shall be lawful for any police magistrate who examines any complainant or witness on commission under the provisions of chapter XXXVII. to require such complainant or witness so examined to execute a bond, with or without sureties, as such magistrate may determine. If a complainant or witness refuses or neglect to execute such bond, the police magistrate may commit him to prison until such bond is duly executed, or until he shall be lawfully discharged.

182 If any complainant or witness refuse to attend before the superior court, or to execute the bond above directed, the magistrate may detain him in custody until he executes such bond, or until his attendance at the superior court is required, when the magistrate shall send him in custody to the superior court.

Detention in custody in case of refusal to attend or to execute bond.

183 In proceedings under this chapter or chapter XIX., the police magistrate shall, if he commits the accused for trial, file, as part of the record of the inquiry, (*a*) the list or lists of witnesses given by the accused; (*b*) the list or lists of witnesses bound over, or in custody, to appear; (*c*) a copy of the warrant of committal. And he shall record or cause to be recorded (*a*) a brief statement of his reasons for committal; (*b*) whether the accused is on bail or in custody; and every record of an inquiry shall be certified under the hand of such police magistrate.

Record of inquiry under chapters XVI. and XIX. [§ 6, 22 of 1890]

184 When the inquiry is concluded, the accused person shall, if he demands it at a reasonable time before the trial, be furnished with a copy of the evidence which is recorded, upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council.

Accused to be furnished with copy of evidence.

185 When the accused person is committed for trial, the police court shall forthwith transmit the record of the inquiry to the Attorney-General.

Record of inquiry to be forwarded to Attorney-General.

186 Until and during the trial, or until the accused shall be discharged by the Attorney-General as hereinafter provided, the police magistrate shall, subject to the provisions of this Code regarding the taking of bail, commit the accused by warrant to custody.

Magistrate to commit accused to custody to take his trial.

CHAPTER XVII.

(*See No. 11 of 1885.*)

Of the Inquiry into Cases of Suicide, Sudden Death, or Death by Accident or Violence, or in an Asylum or a Prison, or where there is suspicion of an Offence having been committed in connection with such Death, or a Dead Body is found.

187 The following procedure shall be observed by police magistrates in all cases falling under heads (6), (7), and (8) of section 152.

Procedure to be observed.

188 The police magistrate shall ascertain the names of any persons likely to be acquainted with the facts of the case, and to be able to give evidence touching the death to be inquired into, and shall summon them to give evidence before him.

Magistrate to ascertain names of witnesses.

189 The police magistrate shall hold an inquiry into the cause of death, and shall record the evidence taken by him in connection therewith.

He shall hold inquiry and record evidence.

If expedient he shall direct a post-mortem to be held.

190 The police magistrate shall, if he consider it expedient, call upon the government medical officer of the district, or any other medical practitioner, to hold a post-mortem examination of the dead body, and to report to such police magistrate regarding the cause of death.

Or cause body to be disinterred.

191 Whenever such police magistrate shall consider it expedient to make an examination of the dead body of any person who has been already interred, in order to discover the cause of death, the police magistrate may cause the body to be disinterred and examined.

He shall make a full report and forward same to Attorney-General.

192 He shall, after such inquiry, make and record a full and detailed report of the case and of his opinion thereon, and as to the cause of death, and shall forward the same, together with the evidence taken by him, to the Attorney-General.*

If it appears that an offence has been committed, he shall proceed under chapter XVI.

193 If in the course, or upon the termination, of such inquiry, it shall appear, or the police magistrate shall have reason to believe, that any person has committed any offence cognizable before a superior court, such police magistrate shall deal with such person under the provisions contained in chapter XVI.

Observing procedure therein prescribed.

194 In holding any inquiry under this chapter the police magistrate shall have all the powers which he would have in, and shall proceed in the same manner as if he were holding an inquiry into, an offence under chapter XVI.

Governor may appoint persons to do coroners' duties.

195 An inquiry under this chapter may be made by any person appointed by the Governor for that purpose. Provided always that when any inquiry shall be held by a person so appointed, he shall associate with himself at such inquiry three respectable householders of the district in which such inquiry shall be held.

CHAPTER XVIII.

Of the Charge.

Form of Charge.

Charge to state offence.

196 Every charge under this Code shall state the offence with which the accused is charged.

Specific name of offence sufficient description.

If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

How stated where offence has no specified name.

If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged.

The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge.

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* See section 374 (*f*) *infra*.

The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case. **What implied in charge.**

The charge shall, when it is preferred, whether at the inquiry preliminary to committal for trial or at the trial, be read to the accused in a language which he understands. **Language of charge.**

If the accused has been previously convicted of any offence, and it is intended to prove such previous conviction for the purpose of affecting the punishment which the court is competent to award, the fact, date, and place of the previous conviction shall be stated in the charge. **Previous conviction, when to be set out.**

If such statement is omitted, the court may add it at any time before sentence is passed.

Illustrations.

(*a*) A is charged with the murder of B. This is equivalent to a statement that A's act fell within the definition of murder given in sections 293 and 294 of the Ceylon Penal Code; that it did not fall within any of the general exceptions of the same Code; and that it did not fall within any of the four exceptions to section 294, or that, if it did fall within exception 1, one or other of the three provisoes to that exception applied to it.

(*b*) A is charged, under section 317 of the Ceylon Penal Code, with voluntarily causing grievous hurt to B, by means of an instrument for shooting. This is equivalent to a statement that the case was not provided for by section 326 of the Ceylon Penal Code, and that the general exceptions did not apply to it.

(*c*) A is accused of murder, cheating, theft, extortion, or criminal intimidation, or using a false property-mark. The charge may state that A committed murder, or cheating, or theft, or extortion, or criminal intimidation, or that he used a false property-mark, without reference to the definitions of those crimes contained in the Ceylon Penal Code; but the sections under which the offence is punishable must, in each instance, be referred to in the charge.

(*d*) A is charged, under section 182 of the Ceylon Penal Code, with intentionally obstructing a sale of property offered for sale by the lawful authority of a public servant. The charge should be in those words.

197 The charge shall contain such particulars as to the time and place of the alleged offence, and the person (if any) against whom, or the thing (if any) in respect of which, it was committed, as are reasonably sufficient to give the accused notice of the matter with which he is charged. **Particulars as to time, place, and person.**

198 When the nature of the case is such that the particulars mentioned in sections 196 and 197 do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose. **When manner of committing offence must be stated.**

Illustrations.

(*a*) A is accused of the theft of a certain article at a certain time and place. The charge need not set out the manner in which the theft was effected.

(*b*) A is accused of cheating B at a given time and place. The charge must set out the manner in which A cheated B.

(*c*) A is accused of giving false evidence at a given time and place. The charge must set out that portion of the evidence given by A which is alleged to be false.

(*d*) A is accused of obstructing B, a public servant, in the discharge of his public functions at a given time and place. The charge must set out the manner in which A obstructed B in the discharge of his functions.

(*e*) A is accused of the murder of B at a given time and place. The charge need not state the manner in which A murdered B.

(*f*) A is accused of disobeying a direction of the law with intent to save B from punishment. The charge must set out the disobedience charged and the law infringed.

Words in charge taken in sense of law under which offence is punishable.

199 In every charge words used in describing an offence shall be deemed to have been used in the sense attached to them respectively by the law under which such offence is punishable.

Effect of errors.

200 No error in stating either the offence or the particulars required to be stated in the charge, and no omission to state the offence or those particulars, shall be regarded at any stage of the case as material, unless the accused was misled by such error or omission.

Illustrations.

(*a*) A is charged, under section 237 of the Ceylon Penal Code, with "having been in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit," the word "fraudulently" being omitted in the charge. Unless it appears that A was in fact misled by this omission, the error shall not be regarded as material.

(*b*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge, or is set out incorrectly. A defends himself, calls witnesses, and gives his own account of the transaction. The court may infer from this that the omission to set out the manner of the cheating is not material.

(*c*) A is charged with cheating B, and the manner in which he cheated B is not set out in the charge. There were many transactions between A and B, and A had no means of knowing to which of them the charge referred, and offered no defence. The court may infer from such facts that the omission to set out the manner of the cheating was, in this case, a material error.

(*d*) J is charged with the murder of A B on the 21st January, 1882. In fact, the murdered person's name was H B, and the date of the murder was the 20th January, 1882. J was never charged with any murder but one, and had heard the inquiry before the magistrate, which referred exclusively to the case of H B. The court may infer from these facts that J was not misled, and that the error in the charge was immaterial.

(*e*) J was charged with murdering A B on the 20th January, 1882, and H B (who tried to arrest him for that murder) on the 21st January, 1882. When charged for the murder of A B, he was tried for the murder of H B. The witnesses present in his defence were witnesses in the case of A B. The court may infer from this that J was misled, and that the error was material.

Court may alter charge.

201 A court may alter any charge at any time before judgment is pronounced, or, in the case of trials before the Supreme Court, before the verdict of the jury is returned.

Every such alteration shall be read and explained to the accused.

When trial may proceed on altered charge immediately.

202 If the alteration made under section 201 is such that proceeding immediately with the trial is not likely, in the opinion of the court, to prejudice the accused in his defence or the prosecutor in the conduct of the case, the court may, in its discretion, after such alteration has been made, proceed with the trial as if the altered charge had been the original charge.

When new trial may be directed or trial adjourned.

203 If the altered charge is such that proceeding immediately with the trial is likely, in the opinion of the court, to prejudice the accused or the prosecutor as aforesaid, the court may either direct a new trial or adjourn the trial for such period as may be necessary.

Stay of proceedings, if prosecution of offence in altered charge requires previous sanction.

204 If the offence stated in the altered charge is one for the prosecution of which previous sanction is necessary, the case shall not be proceeded with until such sanction is obtained, unless sanction has been already obtained for a prosecution on the same facts as those on which the new or altered charge is founded.

Recall of witnesses when charge altered.

205 Whenever a charge is altered by the court after the commencement of the trial, the prosecutor and the accused shall be allowed to recall or re-summon, and examine with reference to such alteration, any witness who may have been examined.

Effect of material error.

206 If the Supreme Court, in the exercise of its powers of appeal, reference, or revision, is of opinion that any person convicted of an offence was misled in his defence by the absence of a charge, or by an error in the charge, it shall direct a new trial to be had upon a charge framed in whatever manner it thinks fit.

If the court is of opinion that the facts of the case are such that no valid charge could be preferred against the accused in respect of the facts proved, it shall quash the conviction.

Illustration.

A is convicted of an offence under section 193 of the Ceylon Penal Code, upon a charge which omits to state that he knew the evidence which he corruptly used or attempted to use as true or genuine was false or fabricated. If the court thinks it probable that A had such knowledge, and that he was misled in his defence by the omission from the charge of the statement that he had it, it shall direct a new trial upon an amended charge: but if it appears probable from the proceedings that A had no such knowledge, it shall quash the conviction.

Joinder of Charges.

Separate charges for separate offences.

207 For every distinct offence of which any person is accused there shall be a separate charge, and every such charge shall be tried separately, except in the cases mentioned in sections 208, 209, 210, and 213.

Illustration.

A is accused of a theft on one occasion, and of causing grievous hurt on another occasion. A must be separately charged and separately tried for the theft and the causing grievous hurt.

Three offences of same kind within a year may be charged together.

208 When a person is accused of more offences than one of the same kind, committed within the space of twelve months from the first to the last of such offences, he may be charged with, and tried at one trial for, any number of them not exceeding three.

Offences are of the same kind when they are punishable with the same amount of punishment under the same section of the Ceylon Penal Code, or of any special or local law.

I.—Trial for more than one offence.

209 I.—If, in one series of acts so connected together as to form the same transaction, more offences than one are committed by the same person, he may be charged with, and tried at one trial for, every such offence.

II.—Offence falling within two definitions.

II.—If the acts alleged constitute an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished, the person accused of them may be charged with, and tried at one trial for, each of such offences.

III.—Acts constituting one offence but constituting another offence when combined.

III.—If several acts, of which one or more than one would by itself or themselves constitute an offence, constitute when combined a different offence, the person accused of them may be charged with and tried at one trial for the offence constituted by such acts when combined, or for any offence constituted by any one or more of such acts.

Nothing contained in this section shall affect the Ceylon Penal Code, section 67.

Illustrations.

To paragraph I.:

(*a*) A rescues B, a person in lawful custody, and in so doing causes grievous hurt to C, a constable in whose custody B was. A may be charged with, and tried for, offences under sections 220 and 324 of the Ceylon Penal Code.

(*b*) A has in his possession several seals, knowing them to be counterfeit, and intending to use them for the purpose of committing several forgeries punishable under section 455 of the Ceylon Penal Code. A may be separately charged with, and convicted of, the possession of each seal under section 461 of the Ceylon Penal Code.

(*c*) With intent to cause injury to B, A institutes a criminal proceeding against him, knowing that there is no just or lawful ground for such proceeding; and also falsely accuses B of having committed an offence, knowing that there is no just or lawful ground for such charge. A may be separately charged with, and convicted of, two offences under section 208 of the Ceylon Penal Code.

(*d*) A, with intent to cause injury to B, falsely accuses him of having committed an offence, knowing that there is no just or lawful ground for such charge. On the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with, and convicted of, offences under sections 208 and 191 of the Ceylon Penal Code.

(*e*) A, with six others, commits the offences of rioting, grievous hurt, and assaulting a public servant endeavouring, in the discharge of his duty as such, to suppress the riot. A may be separately charged with, and convicted of, offences under sections 144, 316, and 149 of the Ceylon Penal Code.

(*f*) A threatens B, C, and D at the same time with injury to their persons with intent to cause alarm to them. A may be separately charged with, and convicted of, each of the three offences under section 486 of the Ceylon Penal Code.

The separate charges referred to in illustrations (*a*) to (*f*) respectively may be tried at the same time.

To paragraph II.:

(*g*) A wrongfully strikes B with a cane. A may be separately charged with, and convicted of, offences under sections 343 and 314 of the Ceylon Penal Code.

(*h*) Several stolen sacks of corn are made over to A and B, who know they are stolen property, for the purpose of concealing them. A and B thereupon voluntarily assist each other to conceal the sacks at the bottom of a drain-pit. A and B may be separately charged with, and convicted of, offences under sections 394 and 396 of the Ceylon Penal Code.

(*i*) A exposes her child, with the knowledge that she is thereby likely to cause its death. The child dies in consequence of such exposure. A may be separately charged with, and convicted of, offences under sections 308 and 297 of the Ceylon Penal Code.

(*j*) A dishonestly uses a forged document as genuine evidence, in order to convict B, a public servant, of an offence under section 163 of the Ceylon Penal Code. A may be separately charged with, and convicted of, offences under sections 459 (read with 455) and 193 of the same Code.

To paragraph III.:

(*k*) A commits robbery on B, and, in doing so, voluntarily causes hurt to him. A may be separately charged with, and convicted of, offences under sections 314, 380, and 382 of the Ceylon Penal Code.

Where it is doubtful what offence has been committed.

210 If a single act or series of acts is of such a nature that it is doubtful which of several offences the facts which can be proved will constitute, the accused may be charged with having committed all or any of such offences, and any number of such charges may be tried at once; or he may be charged in the alternative with having committed some one of the said offences.

Illustration.

A is accused of an act which may amount to theft, or receiving stolen property, or criminal breach of trust, or cheating. He may be charged with theft, receiving stolen property, criminal breach of trust, and cheating, or he may be charged with having committed theft, or receiving stolen property, or criminal breach of trust, or cheating.

When a person is charged with one offence he can be convicted of another.

211 If, in the case mentioned in section 210, the accused is charged with one offence, and it appears in evidence that he committed a different offence for which he might have been charged under the provisions of that section, he may be convicted of the offence which he is shown to have committed, although he was not charged with it.

Illustration.

A is charged with theft. It appears that he committed the offence of criminal breach of trust, or that of receiving stolen goods. He may be convicted of criminal breach of trust, or of receiving stolen goods (as the case may be), though he was not charged with such offence.

When offence proved included in offence charged.

212 When a person is charged with an offence consisting of several particulars, a combination of some only of which constitutes a complete minor offence, and such combination is proved, but the remaining particulars are not proved, he may be convicted of the minor offence, though he was not charged with it.

When a person is charged with an offence, and facts are proved which reduce it to a minor offence, he may be convicted of the minor offence although he is not charged with it.

Nothing in this section shall be deemed to authorize a conviction of any offence referred to in section 149 or section 151, when no complaint has been made as required by those sections.

Illustrations.

(*a*) A is charged, under section 390 of the Ceylon Penal Code, with criminal breach of trust in respect of property entrusted to him as a carrier. It appears that he did commit criminal breach of trust under section 389 in respect of the property, but that it was not entrusted to him as a carrier. He may be convicted of criminal breach of trust under section 389.

(*b*) A is charged, under section 316 of the Ceylon Penal Code, with causing grievous hurt. He proves that he acted on grave and sudden provocation. He may be convicted under section 326 of that Code.

All persons concerned in committing an offence may be charged together.

213 When more persons than one are accused of the same offence, or of different offences committed in the same transaction, or when one person is accused of committing any offence, and another of abetment of, or attempt to commit, such offence, they may be charged and tried together or separately, as the court thinks fit; and the provisions contained in the former part of this chapter shall apply to all such charges.

Illustrations.

(*a*) A and B are accused of the same murder. A and B may be charged and tried together for the murder.

(*b*) A and B are accused of a robbery, in the course of which A commits a murder with which B has nothing to do. A and B may be tried together on a charge, charging both of them with the robbery and A alone with the murder.

(*c*) A and B are both charged with a theft, and B is charged with two other thefts committed by him in the course of the same transaction. A and B may be both tried together on a charge, charging both with the one theft and B alone with the other two thefts.

When conviction on one charge, remaining charges may be withdrawn.

214 When more charges than one are made against the same person, and when a conviction has been had on one or more of them, the complainant, or the officer conducting the prosecution, may, with the consent of the court, withdraw

the remaining charge or charges, or the court of its own accord may stay the inquiry into, or trial of, such charge or charges. Such withdrawal shall have the effect of an acquittal on such charge or charges, unless the conviction be set aside, in which case the said court (subject to the order of the court setting aside the conviction) may proceed with the inquiry into, or trial of, the charge or charges so withdrawn.

Effect of withdrawal.

CHAPTER XIX.

(*Section 7 of No. 22 of 1890.*)

The Trial of Cases where a Police Court has power to try Summarily.

215 The following procedure shall be observed by the police magistrate in all cases falling under—

Procedure to be observed.

(*a*) Heads (2) and (5) of section 152, in which the offence is one triable summarily by the police court;

(*b*) Heads (1), (3), and (4) of section 152, where it shall appear after the examination required by section 156 that the offence is one which the police court has jurisdiction to try summarily; and

(*c*) Heads (1), (2), (3), (4), and (5) of section 152 in which the offence is one not triable summarily by the police court, but is one within the jurisdiction of the district court, and the police magistrate is of opinion that the same may be sufficiently dealt with and disposed of by the police court summarily, and the accused consents to the same being tried by the said court in manner provided in section 219.

216 If the accused, being before the police court, upon being asked if he has any cause to show why he should not be convicted as provided by section 219, does not admit that he has committed the offence, or if the accused is not before the police court, the police magistrate shall appoint a time for the appearance of the accused and the trial and hearing of the complaint, and shall ascertain, from the complainant or accused if present, or otherwise, the names of any persons likely to be acquainted with the facts of the case, and to be able to give evidence for the prosecution or defence, and shall summon to give evidence before the police court such of them as he thinks necessary.

When accused is not before court, or, being present, denies charge, magistrate to appoint time for trial.

217 (1) If the accused is not before the police court, and the case is one in which a summons should issue in the first instance, the police magistrate shall issue his summons for the attendance of the accused. If the case appears to be one in which a warrant should issue in the first instance, the police magistrate may issue a warrant, or, if he thinks fit, a summons, for enforcing the appearance of the accused at the time appointed before the police court.

Summons or warrant should be issued.

(2) Nothing in this section shall be deemed to affect the provisions of section 65.

SECTION 7 OF No. 22 OF 1890—*contd.*

Personal attendance of accused may be dispensed with.

218 Whenever a police magistrate issues a summons, he may, in his discretion, dispense with the personal attendance of the accused, and permit him to appear by his pleader. But the police magistrate may, in his discretion, at any stage of the proceedings direct the personal attendance of the accused, and enforce his attendance in manner hereinbefore provided.

Particulars of case to be stated to accused.

219 (1) When the accused appears, or is brought before the police magistrate, the particulars of the offence of which he is accused shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted; but it shall not be necessary to frame a formal charge.

Magistrate may try accused by consent.

(2) If the offence is one over which a police court does not have summary jurisdiction, but is one within the jurisdiction of the district court, and the police magistrate is of opinion that the same may be sufficiently dealt with and disposed of by the police court summarily, he shall explain to the accused the particulars of the offence, and say to him these words, or words to the like effect:

"Do you consent that you shall be tried by this court summarily, or do you desire to be tried by a superior court?"

Consent to be recorded.

(3) If the accused consents to being summarily tried, such consent shall be recorded, and he shall be asked if he has any cause to show why he should not be convicted, and the case shall be proceeded with in manner hereinafter provided in this chapter. If he does not consent, then the police magistrate shall proceed with the case as is provided in chapter XVI.

Admission of offence by accused.

220 If the case is one summarily triable by the police court, or if the accused consents to the case being summarily tried by the police court in manner hereinbefore provided, and the accused, upon being asked if he has any cause to show why he should not be convicted as provided by section 219, admits that he has committed the offence of which he is accused, his admission shall be recorded as nearly as possible in the words used by him; and if he shows no sufficient cause why he should not be convicted, the magistrate shall convict him accordingly, and pass sentence upon him according to law, and shall record the finding and sentence.

If accused does not admit offence, magistrate shall proceed with inquiry.

Accused may cross-examine witnesses for prosecution.

221 If the accused does not make such admission, the police magistrate shall proceed to hear the complainant (if any), and take all such evidence as may be produced in support of the prosecution, and also to hear the accused and take all such evidence as he produces in his defence. The accused shall be permitted to cross-examine any witness examined against him, and the prosecutor or complainant may re-examine any witness who may have been cross-examined.

Magistrate may issue process for compelling attendance of witnesses.

222 The police magistrate may, if he thinks fit, on the application at any time of the complainant or accused, issue process to compel the attendance of any witness, or the production of any document or other thing. The police

SECTION 7 OF No. 22 OF 1890—*contd.*

magistrate may, before summoning any witness on such application, require that his reasonable expenses incurred for the purposes of attending the trial be deposited in court.

Expenses of witnesses.

223 If the police magistrate, upon taking the evidence referred to in section 221, and such further evidence (if any) as he may, of his own motion, cause to be produced, and (if he thinks fit) examining the accused, finds the accused not guilty, he shall record an order of acquittal. If he finds the accused guilty, he shall pass sentence upon him according to law.

Acquittal.

Sentence.

224 Nothing in the preceding section contained shall be deemed to prevent a police magistrate from acquitting the accused at any previous stage of the case, if, for reasons to be recorded by him, he considers the complaint to be groundless.

Power to police magistrate to acquit accused at any time if he considers complaint to be groundless.

225 (1) In cases falling under the heads (*a*) and (*b*) of section 215, if the police magistrate, after taking the evidence adduced for the prosecution and the defence, is of opinion that the offence cannot be adequately punished by the police court, and that there is sufficient evidence on which the accused may be committed for trial before a superior court, the police magistrate may refrain from passing sentence on the accused, and shall forward the proceedings taken in the case to the Attorney-General.

Commitment for trial before superior court.

(2) The Attorney-General may, in his discretion, frame a charge in writing, which shall be filed with the record, and a copy of which shall be served on the accused, and instruct the magistrate as to the court to which the case shall be committed for trial.

(3) The police magistrate shall thereupon commit for trial the accused upon the charge so framed as aforesaid to the court named for the purpose by the Attorney-General, and to no other.

226 (1) A police magistrate may convict an accused of any offence over which a police court has summary jurisdiction, which, from the facts admitted or proved, he appears to have committed, whatever may be the nature of the complaint or information.

Conviction not limited to complaint or information.

(2) The police magistrate, before he so convicts an accused as aforesaid, shall frame a charge in writing, and shall read and explain the same to the accused; and such of the provisions of chapter XVIII. as relate to altered charges shall apply to a charge framed under this section.

227 In every case summarily disposed of under this chapter the police magistrate shall record, or cause to be recorded, a brief statement of the reasons for his finding; and he shall certify under his hand as such police magistrate the record of every such case.

Magistrate to state reasons for his finding.

228 If the summons has been issued on complaint, and upon the day appointed for the appearance of the accused, or any day subsequent thereto to which the hearing may be adjourned, the complainant does not appear, the police

Accused may be acquitted in the absence of complainant.

magistrate shall, notwithstanding anything hereinbefore contained, acquit the accused, unless for some reason he thinks proper to adjourn the hearing of the case to some other day.

Withdrawal of charge by complainant.

229 If a complainant, at any time before a final order is passed in any case under this chapter, satisfies the police magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the police magistrate may permit him to withdraw the same, and shall thereupon acquit the accused.

Accused may be discharged by magistrate with sanction of Attorney-General.

230 In any case instituted under this chapter otherwise than upon a complaint, a police magistrate may, with the previous sanction of the Attorney-General, for reasons to be recorded by the magistrate, stop the proceedings at any stage without pronouncing any judgment, either of acquittal or conviction, and may thereupon discharge the accused.

Where accused tried by consent police court to have jurisdiction to impose double ordinary sentence.

231 In any case in which the offence is one triable summarily by the police court with the consent of the accused as provided in section 219, the police court shall have jurisdiction, upon the conviction of the offender, to impose on him any sentence not exceeding double the maximum sentence which a police court may pass under section 16.

How statement of accused to be recorded.

232 When an accused person in any proceedings under this chapter makes a statement only, or makes a statement and is examined thereon as is provided by section 352, the substance of such statement or statement and examination shall be recorded, and shall be shown or read and interpreted to him in a language he understands, and he shall be at liberty to explain or add to his statement or answers.

Statement to be signed by magistrate.

233 Such statement or statement and examination shall be signed by the police magistrate, but it shall not be necessary for the police magistrate to attach any certificate to the same.

How confession of accused to be recorded.

234 When an accused person in the course of any proceedings under this chapter makes any confession, the police magistrate shall record the same in such manner as is in this Code prescribed for recording evidence, and the confession so recorded shall be shown or read and interpreted to the accused, and shall be signed by the police magistrate, and it shall not be necessary for the police magistrate to attach any certificate to the same.

Statement and confession may be given as evidence.

235 The statement or confession of an accused taken and recorded by a police magistrate under the provisions of sections 232, 233, and 234 may be given in evidence without further proof in any subsequent judicial proceedings, or in any later stage of the same judicial proceedings, anything in this Code to the contrary notwithstanding.

Frivolous or vexatious complaints.

236 (1) If in any case instituted on complaint a police magistrate acquits the accused under section 223, and is of opinion that the complaint was frivolous or vexatious, he

SECTION 7 OF No. 22 OF 1890—*contd.*

may, in his discretion, by his order of acquittal, direct the complainant to pay to the accused, or to each of the accused when there are more than one, such compensation, not exceeding ten rupees, as the police magistrate shall think fit.

Recovery of compensation.

(2) The sum so awarded shall be recoverable as if it were a fine. Provided that, if it cannot be realized, the imprisonment to be awarded shall be simple, and for such term not exceeding thirty days, as the police magistrate directs at the time of awarding compensation. In any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

Crown costs.

(3) If in any case inquired into or tried before a police magistrate under this chapter the complaint be not proceeded with within such time as the police magistrate may deem reasonable, or, if the complaint is declared by the magistrate to have been frivolous or vexatious, it shall be lawful for such police magistrate to make an order for the complainant to pay by way of Crown costs a sum not exceeding five rupees, such sum to be recovered as if it were a fine; and against such order there shall be no appeal; and if any sum which a complainant is awarded to pay by way of Crown costs cannot be recovered, it shall be lawful for the police magistrate to sentence such complainant to simple imprisonment for any period not exceeding fourteen days.

Police magistrate committing under this chapter to have same powers as if he had acted under chapter XVI

237 In any case in which a police magistrate has committed the accused for trial before a superior court under the provisions of section 225, he shall and may perform or exercise all or any of the duties, powers, acts, matters, or things which such police magistrate, if acting under chapter XVI., might perform or exercise after commitment under that chapter.

Powers of Attorney-General.

(*a*) The Attorney-General may exercise, in respect of any case forwarded to him under the provisions of section 225, all or any of the powers conferred on him by chapters XVI. and XX.

Sections 368, 369, 370, and 473 shall not apply to statements and confessions taken under this chapter

(*b*) Sections 368, 369, 370, and 473 shall not apply to statements or confessions taken and recorded by a police magistrate in proceedings carried on under the provisions of this chapter.

Police court cannot convict for lesser offence and so withdraw case from a superior court.

238 In any trial before a police court, if at any stage of the proceedings the evidence shows that an offence has been committed which is not triable summarily, or which cannot be sufficiently dealt with and disposed of by the police court notwithstanding the consent of the accused, the police court shall not be at liberty to disregard material parts of the evidence and convict for a lesser offence and so withdraw the case from the proper tribunal, but it shall be the duty of such court to stop further proceedings under this chapter and to proceed under chapter XVI.

CHAPTER XX.

Of the Proceedings by the Attorney-General.

Attorney-General's powers to file informations.

239 The Attorney-General may exhibit to the Supreme Court informations for all purposes for which Her Majesty's Attorney-General in England may exhibit informations on behalf of the Crown in the High Court of Judicature. Such proceedings may be taken upon every such information as may lawfully be taken in case of similar informations filed by Her Majesty's Attorney-General in England, so far as the circumstances of the case and the course and practice of proceeding in the said Supreme Court respectively will admit.

What persons are deemed to have been brought before the court.

240 All persons appearing before the Supreme Court under a commitment for trial, or in pursuance of bail so to appear, against whom charges are preferred by the Attorney-General, shall, unless the contrary is shown, be deemed to have been brought before the court in due course of law and (subject to the provisions herein contained) shall be tried upon the charges so preferred.

Attorney-General may appoint court to which commitment shall be made.

241 When a police magistrate shall have forwarded the proceedings in any case to the Attorney-General for instructions, as required by section 175, the Attorney-General may, if he consider commitment desirable, by indorsement thereon, name the court to which such commitment, if any, shall be made, and in such event he shall return such proceedings, with such indorsement, to the police court.

Attorney-General may order person to be discharged.
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242 Upon such proceedings being forwarded to the *Attorney-General*, as required by section 175, or upon the record of any inquiry before the police court being transmitted to the Attorney-General, as required by section 185, it shall be competent for the Attorney-General, if he is of opinion that no further proceedings should be taken in the case, to make an order in writing, signed by himself, directing the accused person to be discharged from the matter of the complaint, or information, or charge, and if such accused person is in custody, from further detention; and thereupon the jailer, or other person, having the accused person in custody, shall forthwith release him, and all the proceedings taken upon such inquiry shall cease and be determined.

Attorney-General may order further evidence to be taken.

243 If the Attorney-General is of opinion that a criminal offence is disclosed by the proceedings or record against the accused person, but that the evidence already taken, by reason of being in any particular or respect defective, is not sufficient to afford a foundation for a full and proper trial, then he may make, in writing, an order in the case, signed by himself, requesting the police court to take such further evidence as may be specified or indicated in the order, either in the way of examining anew witnesses who have already given their testimony, or otherwise to continue the inquiry. And upon making such order, the Attorney-General shall return to the police court the proceedings or record, together with his order, for the purpose of the latter being carried into effect.

244 Upon the proceedings or record, together with the order of the Attorney-General, being so returned to it, the police court shall be empowered, and it shall be its duty, to cause the accused person to appear before it, and to resume and proceed with the inquiry in pursuance of the order of the Attorney-General and according to its terms.

Duty of police court in such case.

245 For the purpose of this supplemental inquiry, the accused person, if at large on bail, shall be called upon by written notice to appear before the police court, and if in prison shall, by an order of the police court, be brought before the police court, on a day appointed therefor, and all the provisions in respect of the original inquiry shall be applicable to the supplemental inquiry. The police court shall, in any event, at the termination of the supplemental inquiry, again forthwith transmit the proceedings or record, as the case may be, in the case to the Attorney-General.

Procedure on such supplemental inquiry.

246 The supplemental inquiry may be conducted in the police court by a magistrate thereof other than the magistrate who conducted the original inquiry.

May be before another magistrate.

247 Whenever the Attorney-General is of opinion that a criminal offence is disclosed by the record as against the accused person, and that the evidence taken is sufficient to afford a foundation for a full and proper trial, then he shall in his discretion, by his fiat in writing signed by himself, designate the court, whether Supreme Court or district court, before which the case shall be placed for trial, and shall thereupon transmit the record of the case to the court so designated.

Attorney-General by fiat to appoint court for trial.

248 The fiat shall be filed in the case, and if the court therein designated shall be other than the court to which the accused person was committed, he shall, if at large on bail, be served with a copy thereof, and thereupon the bail of the accused shall be taken to refer to the court named in the fiat in the same and the like manner as if such last-mentioned court had been the court to which the accused had originally been committed; but if he is detained in prison, a copy of the fiat shall be left with the jailor, who shall inform the prisoner of the same, and, if he desires it, shall give him a copy of it.

Fiat to be filed, and, if court other than that to which commitment was made, accused to be informed.

249 In the event of the court designated by the fiat of the Attorney-General for the trial of the accused being a court other than the court to which the accused shall have been committed for trial, the Attorney-General may cause notices to that effect to be served on the witnesses who shall have been bound over to appear and give evidence; and thereupon the bail of such witnesses shall be taken to refer to such court and time named in such notice, in the same manner as if they had been bound over to appear and give evidence at such court and time.

And in such event witnesses to be also informed thereof.

250 Before transmitting the record of the case to the court of trial, the Attorney-General shall, if it appear to him necessary and expedient so to do, alter or re-draw the charge against the accused, having regard to the rules as to the form

Attorney-General may alter or re-draw charge.

of charges hereinbefore contained; and in the event of his so doing, the charge so altered or re-drawn shall be filed with the record, and shall be deemed the charge on which the accused person is committed for trial, and a copy thereof shall be served on the accused person.

Police magistrate to transmit proceedings in every case to Attorney-General when required to do so.

251 Every police magistrate shall, whenever required so to do by the Attorney-General, forthwith transmit to the Attorney-General the proceedings in any case in which an inquiry has been or is being held before the police court of such magistrate, and thereupon such inquiry shall be suspended in the same and the like manner as upon an adjournment thereof.

In case of doubt or difficulty magistrate may transmit case to Attorney-General.

252 Whenever in the course of any inquiry before a police court, the police magistrate of such court shall consider the case one of doubt or difficulty, or that there are peculiar circumstances connected therewith, or he shall be in doubt as to whether an accused person should be committed or not, he may, in his discretion, transmit the proceedings on such inquiry to the Attorney-General, in order that the Attorney-General may give such instructions in the case as to him shall appear requisite.

Attorney-General may give such instructions as he may consider requisite.

253 It shall be competent for the Attorney-General, upon the proceedings in any case being transmitted to him, under the provisions of the two last preceding sections, to give such instructions with regard to the inquiry to which such proceedings relate as he may consider requisite; and thereupon it shall be the duty of the police magistrate to carry into effect, subject to the provisions of this Code, the instructions of the Attorney-General, and to conduct and conclude such inquiry in accordance with the terms of such instructions.

Attorney-General may file an information when of opinion that an accused should not have been discharged.

254 Whenever a police court shall have discharged an accused person under the provisions of chapter XVI., and the Attorney-General shall be of opinion that such accused person should not have been discharged, the Attorney-General may file an information against such person either in the Supreme or a district court, as the Attorney-General shall please, and the Attorney-General may take such proceedings thereon as he is authorized and empowered to take on information filed under the authority of section 239.

Attorney-General entitled to appear in all cases before magistrate.

255 The Attorney-General, or a pleader generally or specially appointed by him, shall be entitled to appear and conduct the prosecution in any case into which the magistrate of a police court may be inquiring, or which he may be trying.

Magistrate may permit person to conduct prosecution.

256 Any magistrate of a police court inquiring into or trying any case, may permit any person, other than a police officer below the rank of sergeant, to conduct the prosecution; but no person, other than the Attorney-General or pleader generally or specially appointed by him, shall be entitled to do so without such permission.

Prosecution may be conducted by pleader.

257 Any person conducting the prosecution may do so personally or by pleader.

258 If any private person instructs a pleader to prosecute in any court in any case in which the Attorney-General, or a pleader appointed by him, appears, the pleader so instructed shall act therein under his directions.

Pleader to act under Attorney-General's directions.

259 The Attorney-General, or pleader appointed by him, may, in any case in which he appears, before the judgment is pronounced, withdraw from the prosecution, and upon such withdrawal—

Attorney-General may withdraw from prosecution.

(*a*) If it is made before a charge has been framed, the accused shall be discharged.

(*b*) If it is made after the charge has been framed, and the case is one in which the police court has power to adjudicate summarily, the accused shall be acquitted.

CHAPTER XXI.

Trials by District Court.

260 Trials before a district court under this chapter may be before a district judge alone, or before the judge aided by assessors, as provided by law.

Trial before district court to be by judge or with assessors.

261 In every trial before a district court, the prosecution shall be conducted by the Attorney-General, or by some officer empowered by him in that behalf.

Trial before district court to be conducted by Attorney-General

262 The Attorney-General may at any time before judgment is passed withdraw any case from a district court; and thereupon all proceedings therein shall be stayed, and the accused shall be discharged from the charge, but such discharge shall not amount to an acquittal.

Attorney-General may withdraw prosecution.

263 If the case comes before the court on the committal of a police court, the charge or charges upon which any accused person is tried in the district court shall be that or those which has or have been approved of, or framed, by the Attorney-General, and shall be embodied by the secretary of the court in an indictment.

Attorney-General to frame or approve of charge.

264 If the case comes before the court from some other court, by virtue of an order of transfer made by the Supreme Court, the charge shall be framed upon the facts disclosed in the examination of the complainant or informant and the evidence taken in the case, and need not be substantially identical with, nor comprehend, the charge, if any, made by the police court before which any portion of the inquiry was held; and a copy of the charge so framed shall be furnished to the accused person free of cost.

In case of transfer from another court, charge to be framed upon the evidence.

Choosing Assessors.

265 When the trial is to be held with the aid of assessors, two or more shall be chosen, as the judge thinks fit, from the persons summoned to act as such.

Judge to choose assessors.

Commencement of Trial.

Accused to appear before court and charge to be read to him, and he shall be called on to plead.

266 When the court is ready to commence the trial, the accused person shall appear, or be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Plea of guilty.

267 If the accused person pleads guilty, the plea shall be recorded on the indictment and he may be convicted thereon.

Refusal to plead or claim to be tried.

268 If the accused person refuses to, or does not plead, or if he claims to be tried, the court shall proceed to try the case.

Trial to commence by Attorney-General stating his case, and examining witnesses.

269 The trial shall commence by the Attorney-General, or other officer who conducts the prosecution, stating his case to the court.

The witnesses for the prosecution shall then be examined, and may be cross-examined, and re-examined.

Accused's statement may be put in.

270 If it is intended to put in, as evidence, the statement (if any) of the accused made before the police court by which he was committed, it may be put in at any time before the close of the case for the prosecution.

Court may acquit without calling for defence; or

Call for defence.

271 When the examination of the witnesses for the prosecution is concluded, if the court wholly discredits the evidence on the part of the prosecution, or is of opinion that such evidence fails to establish the commission of the offence charged against the accused in the indictment, then the court shall return a verdict of acquittal; if, however, the court considers that there are grounds for proceeding with the trial, it shall call upon the accused for his defence, and to produce his witnesses if he desires to do so.

Accused may make his defence.

272 The accused person, or his pleader, may then enter upon his defence, and may examine the witnesses (if any) produced for the defence, who may be cross-examined on behalf of the prosecution, and in that event may be re-examined on the part of the accused person, and the accused person or his pleader may then sum up his case.

When prosecuting officer entitled to reply

273 If any evidence is adduced on behalf of the accused person, the officer conducting the prosecution shall be entitled to reply.

Judge to sum up evidence.

274 When the case for the defence and the prosecutor's reply (if any) are concluded, the court may, in its discretion, sum up the evidence for the prosecution and defence; and in a case tried with the aid of assessors it shall do so, and shall require each of the assessors to state his opinion orally, and shall record such opinion.

The judge shall not be bound to conform to the opinion of the assessors.

And to pass judgment.

275 When the case for the defence and the prosecutor's reply (if any) are concluded, and the assessors' opinion, if the trial has been with the aid of assessors, has been recorded, the court shall proceed to pass judgment of acquittal or conviction.

If the accused person is convicted, the court shall proceed to pass sentence on him according to law.

276 If, in the course of a trial with the aid of assessors, at any time before the finding, any assessor is, from any sufficient cause, prevented from attending throughout the trial, or absents himself, and it is not practicable to enforce his attendance, the trial shall proceed with the aid of the other assessor or assessors.

In case of absence of an assessor, trial to proceed before the other.

If all the assessors are prevented from attending, or absent themselves, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh assessors.

In the absence of all, a new trial to be held.

The provisions of sections 306, 345, with regard to trial by jury in the Supreme Court, shall apply to trials with the aid of assessors in the district courts.

CHAPTER XXII.

Trial before the Supreme Court.

A.—*Preliminary.*

277 All trials under this chapter before the Supreme Court shall be by jury.

Trials before Supreme Court to be by jury.

The Attorney-General, or some other advocate specially authorized by him in that behalf, shall conduct all prosecutions before the Supreme Court.

Attorney-General to conduct all prosecutions before Supreme Court.

278 At any stage of any trial before the Supreme Court under this Code, before the return of the verdict, the Attorney-General may, if he thinks fit, inform the court on behalf of Her Majesty that he will not further prosecute the accused upon the charge; and thereupon all proceedings on such charge against the accused shall be stayed, and he shall be discharged of and from the same. But such discharge shall not amount to an acquittal.

Attorney-General may discontinue prosecution.

279 When any accused person comes for trial before the Supreme Court, under a commitment for trial made by a police court, or by fiat of the Attorney-General, or by virtue of an order of the Supreme Court of transfer of trial from another court, the charge shall be framed or approved by the Attorney-General, having regard to the rules as to the form of charges.

Attorney-General shall approve of charge.

280 If the case comes before the court by virtue of an order of the Supreme Court of transfer of trial from another court, the charge shall be framed upon the facts disclosed in the complaint or information and the evidence taken in the case, and need not be substantially identical with, nor comprehend, the charge (if any) made by the police court before whom any portion of the inquiry was held.

Charge how framed.

281 The Attorney-General shall embody the charge in an indictment, which indictment shall be the foundation of the trial in the Supreme Court; and a copy of such indictment shall be given to the accused person, free of cost, if he demands it

Attorney-General shall embody charge in indictment.

Entry on unsustainable charge.

Effect of entry. [§ 2, 36 of 1884]

281 (1) In trials before the Supreme Court, when it appears to the Supreme Court at any time before the commencement of the trial of the person charged that any charge or any portion thereof is clearly unsustainable, the judge may make on the charge an entry to that effect. Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

Accused to be furnished with copy of his examination on certain terms.

282 The accused person shall also be furnished, upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council, with a copy of his own statement (if any) before the police court which committed him for trial, or, if he has been previously tried before a police court or district court, with a copy of his statement and examination (if any) before such court, and with copies of the depositions of witnesses made on the inquiry by the police court and on the previous trial (if any) of the same matter, and of all documents read and made exhibits as part of such depositions on these occasions respectively, if the accused person demands them a reasonable time before the case comes on for trial.

B.—*Commencement of Trial.*

Commencement of trial.

283 When the court is ready to commence the trial, the accused person shall appear or be brought before it, and the indictment shall be read out in court and explained to him, and he shall be asked whether he is guilty of the offence charged or claims to be tried.

Plea of guilty may be recorded and accused convicted thereon.

284 If the accused person pleads guilty, the plea shall be recorded on the indictment, and he may be convicted thereon: Provided that when the charge so pleaded to is murder, the judge may in his discretion refuse to receive the plea and shall cause the trial to proceed, the plea notwithstanding, in like manner as if the accused person had claimed to be tried.

Refusal to plead or claim to be tried.

285 If the accused person refuses to or does not plead, or if he claims to be tried, the court shall proceed to choose jurors as hereinafter directed, and to try the case. Provided that, subject to the right of objection hereinafter named and to the provisions with respect to the panel for trial, the same jury may try as many accused persons successively as the court thinks fit.

Special jury may be summoned.

286 It shall be competent to the Attorney-General or the accused to apply to any judge of the Supreme Court for an order requiring a special jury to be summoned to try any case before the court; and the judge shall, if he considers such application just and reasonable, make an order accordingly.

C.—*Choosing a Jury.*

Number of jury. [§ 3, 1 of 1888]

287 The jury shall consist of such uneven number, not being less than seven or more than nine, as the Governor in Executive Council, by order applicable to any particular district or districts, may direct, except where the offence charged is one punishable with death, in which case the jury shall consist of nine persons.

In all cases where the trial is for an offence punishable with death, the verdict shall be by a majority of at least two-thirds: in all other cases the verdict may be returned by a majority in number of the jury.

Panel to be determined by agreement.

288 Of the three panels of jurors, prepared as hereinafter in section 327 directed, that one from which the jury shall be taken for the trial shall in each case, wherein a special jury is not directed under section 286, be determined by agreement between the Attorney-General and the accused person.

What jury shall sit if the accused and the Attorney-General cannot agree.

Provided that if they do not agree, the accused person shall be tried by a jury selected from the list referred to as list (1) in section 323 of the said Code, unless the judge otherwise directs; but in no case shall the accused person be allowed as of right the jury he asks for.

[§ 4, 1 of 1886]

Jurors to be chosen by lot, subject to rules to be made.

289 The jury shall be chosen by lot from the persons summoned to act as such on the panel, so selected or determined in such manner as the Supreme Court may from time to time by any rule or rules direct: Provided that—

Until rules made, existing practice maintained.

First.—Pending the issue of a rule or rules under this section, the practice now prevailing shall be followed.

How deficiency to be supplied.

Secondly.—In case of a deficiency of persons summoned, the deficient number may, with the leave of the court, be taken from such other persons present as understand the language which distinguishes the panel.

Names of jurors to be called.

290 As each juror is chosen, his name shall be called aloud, and, upon his appearance, the accused shall be asked if he objects to be tried by such juror.

Objections to be then taken.

Objection may then be taken to such juror by the accused or by the prosecutor, and the grounds of objection shall be stated.

Objections without grounds stated.

Provided that objections without grounds stated shall be allowed to the number of three on behalf of the Crown, and three on behalf of the person or all the persons charged.

Grounds of objection.

291 Any objection taken to a juror on any of the following grounds, if made out to the satisfaction of the court, shall be allowed:

(*a*) Some presumed or actual partiality in the juror;

(*b*) Some personal ground, such as deficiency in the qualification required by any law or rule having the force of law for the time being in force, or being under the age of 21 or above the age of 60 years;

(*c*) His holding any office in or under the court;

(*d*) His executing any duties of police or being entrusted with police duties;

(*e*) His having been convicted of any offence which, in the opinion of the court, renders him unfit to serve on the jury;

(*f*) His inability to understand the language which distinguishes the panel from which the jury is drawn;

(*g*) Any other circumstance which, in the opinion of the court, renders him improper as a juror.

Decision of objection.

292 Every objection taken to a juror shall be decided by the court, and such decision shall be recorded and be final.

Supply of place of juror against whom objection allowed.

If the objection is allowed, the place of such juror shall be supplied by any other juror attending in obedience to any summons and chosen in manner provided by section 289; or, if there is no such other juror present, then by any other person present in the court whose name is on the list of jurors, or whom the court considers a proper person to serve on the jury, provided that no objection to such juror or other person is taken under section 291 and allowed.

Foreman of jury.

293 When the jurors have been chosen, they shall appoint one of their number to be foreman.

The foreman shall preside in the debates of the jury, deliver the verdict of the jury, and ask any information from the court that is required by the jury or any of the jurors.

Judge may appoint.

294 If a majority of the jury do not, within such time as the judge thinks reasonable, agree in the appointment of a foreman, he shall be appointed by the court.

Swearing of jury.

When the foreman has been appointed, the jurors shall be sworn.

Procedure where juror ceases to attend, &c

295 If, in the course of a trial by jury, at any time before the return of the verdict, any juror, from any sufficient cause, is prevented from attending throughout the trial, or if any juror absents himself, and it is not practicable to enforce his attendance, or if it appears that any juror is unable to understand the language in which the evidence is given, or when such evidence is interpreted the language in which it is interpreted, a new juror shall be added, or the jury shall be discharged and a new jury chosen.

In each of such cases the trial shall commence anew.

Discharge of jury in case of sickness of prisoner

296 The judge may also discharge the jury whenever the prisoner becomes incapable of remaining at the bar.

D.—*Trial to close of Case for Prosecution and Defence.*

Registrar to read indictment to jury.

297 As soon as the foreman is nominated the registrar shall, in the hearing of the accused person, read the indictment to the jury; and shall inform them that it is their duty to listen to the evidence which shall be given before them, and upon that evidence to find by the verdict of all, or two-thirds, or the major part of them, as the case may be, whether or not the accused person is guilty of the charge, or any of the charges if more than one made against him in the indictment.

Opening of case for prosecution.

298 When the jurors have been chosen, the prosecutor shall open his case to the jury.

Accused's statement may be put in.

The prosecutor shall then examine his witnesses, and may put in as evidence, if it is intended so to do, the statement of the accused (if any) made before the police court by which he was committed for trial.

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299 The evidence of a witness, duly taken in the presence of the accused before the committing magistrate, may, in the discretion of the presiding judge, if such witness is produced and examined, be treated as evidence in the case.

Evidence given at preliminary inquiry admissible.

300 When the examination of the witnesses for the prosecution is concluded, the accused shall be asked whether he means to adduce evidence.

Procedure after examination of witnesses for prosecution.

If he says that he does not, the prosecutor may sum up his case : and if the court considers that there is no evidence that the accused committed the offence, it may then direct the jury to return a verdict of "not guilty."

If the accused, or any one of several accused, says that he means to adduce evidence, and the court considers that there is no evidence that the accused committed the offence, the court may then direct the jury to return a verdict of "not guilty."

If the accused, or any one of several accused, says that he means to adduce evidence, and the court considers that there is evidence that he committed the offence ; or if, on his saying that he does not mean to adduce evidence, the prosecutor sums up his case, and the court considers that there is evidence that the accused committed the offence, the court shall call on the accused to enter on his defence.

301 The accused or his pleader may then open his case, stating the facts or law on which he intends to rely, and making such comments as he thinks necessary on the evidence for the prosecution. He may then examine his witnesses (if any), and after their cross-examination and re-examination (if any) may sum up his case.

Defence.

302 The accused shall be allowed to examine any witness not previously named by him, if such witness is in attendance ; but he shall not, except as provided in sections 173 and 205, be entitled of right to have any witness summoned, other than the witnesses named in the list delivered to the police court by which he was committed for trial.

Right of accused as to examination and summoning of witnesses.

303 The prosecutor may, by leave of the court, call witnesses in rebuttal, and such witnesses may be cross-examined and re-examined.

Witnesses in rebuttal.

304 If the accused, or any of the accused, has stated, when asked under section 300, that he means to adduce evidence, the prosecutor shall be entitled to reply.

Prosecutor's right of reply.

305 Whenever the court thinks that the jury should view the place in which the offence charged is alleged to have been committed, or any other place in which any other transaction material to the trial is alleged to have occurred, the court shall make an order to that effect ; and the jury shall be conducted in a body, under the care of an officer of the court, to such place, which shall be shown to them by a person appointed by the court.

View by jury of place where offence committed.

Such officer shall not, except with the permission of the court, suffer any other person to speak to, or hold any communication with, any of the jury; and, unless the court otherwise directs, they shall, when the view is finished, be immediately conducted back into court.

When juror may be examined

306 If a juror is personally acquainted with any relevant fact it is his duty to inform the judge that such is the case, whereupon he may be sworn, examined, cross-examined, and re-examined in the same manner as any other witness.

Jury to attend an adjourned sitting.

307 If a trial is adjourned, the jury shall attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial.

Locking up jury.

308 The Supreme Court may, from time to time, make rules as to keeping the jury together during a trial lasting for more than one day; and subject to such rules the presiding judge may order whether and in what manner the jurors shall be kept together under the charge of an officer of the court, or whether they shall be allowed to return to their respective homes.

E.—*Conclusion of Trial.*

Charge to jury.

309 When the case for the defence and the prosecutor's reply (if any) are concluded, the court shall proceed to charge the jury, summing up the evidence for the prosecution and defence, and laying down the law by which the jury are to be guided.

Duty of judge

310 It is the duty of the judge—

(*a*) To decide all questions of law arising in the course of the trial, and especially all questions as to the relevancy of facts which it is proposed to prove, and the admissibility of evidence or the propriety of questions asked by, or on behalf of, the parties; and, in his discretion, to prevent the production of inadmissible evidence, whether it is or is not objected to by the parties;

(*b*) To decide upon the meaning and construction of all documents given in evidence at the trial;

(*c*) To decide upon all matters of fact which it may be necessary to prove in order to enable evidence of particular matters to be given;

(*d*) To decide whether any question which arises is for himself or for the jury, and upon this point his decision shall bind the jurors.

The judge may, if he thinks proper, in the course of his summing up, express to the jury his opinion upon any question of fact, or upon any question of mixed law and fact, relevant to the proceeding.

Illustrations.

(*a*) It is proposed to prove a statement, made by a person not being a witness in the case, on the ground that circumstances are proved which render evidence of such statement admissible.

It is for the judge, and not for the jury, to decide whether the existence of those circumstances has been proved.

(*b*) It is proposed to give secondary evidence of a document, the original of which is alleged to have been lost or destroyed.

It is the duty of the judge to decide whether the original has been lost or destroyed.

Duty of jury.

311 It is the duty of the jury—

(*a*) To decide which view of the facts is true, and then to return the verdict which under such view ought, according to the direction of the judge, to be returned;

(*b*) To determine the meaning of all technical terms (other than terms of law) and words used in an unusual sense, which it may be necessary to determine, whether such words occur in documents or not;

(*c*) To decide all questions which, according to law, are to be deemed questions of fact;

(*d*) To decide whether general indefinite expressions do or do not apply to particular cases, unless such expressions refer to legal procedure, or unless their meaning is ascertained by law, in either of which cases it is the duty of the judge to decide their meaning.

Illustrations.

(*a*) A is tried for the murder of B.

It is the duty of the judge to explain to the jury the distinction between murder and culpable homicide, and to tell them under what views of the facts A ought to be convicted of murder, or of culpable homicide, or to be acquitted.

It is the duty of the jury to decide which view of the facts is true, and to return a verdict in accordance with the direction of the judge, whether that direction is right or wrong, and whether they do or do not agree with it.

(*b*) The question is whether a person entertained a reasonable belief on a particular point—whether work was done with reasonable skill or due diligence.

Each of these is a question for the jury.

Retirement to consider.

312 After the judge has finished his charge, the jury may retire to consider their verdict.

Except with the leave of the court, no person other than a member of the jury shall speak to, or hold any communication with, any member of such jury.

Delivery of verdict.

313 When the jury have considered their verdict, the foreman shall inform the judge of their verdict.

Procedure where jury differ.

314 If the jury are not unanimous, the judge may require them to retire for further consideration. After such further consideration the jury may deliver their verdict although they are not unanimous.

Verdict to be given on each charge.

315 Unless otherwise ordered by the court, the jury shall return a verdict on all the charges on which the accused is tried, and the judge may ask them such questions as are necessary to ascertain what their verdict is.

Questions and answers to be recorded.

Such questions and the answers to them shall be recorded.

Amending verdict.

316 When by accident or mistake a wrong verdict is delivered, the jury may, before or immediately after it is recorded, amend the verdict, and it shall stand as ultimately amended.

Discharge of jury when they cannot agree.

If the jury, or the required majority of them, cannot agree, the judge shall, after the lapse of such time as he thinks reasonable, discharge them.

Judge to give judgment according to verdict.

317 The judge shall give judgment according to the verdict of the jury.

If the accused is acquitted, the judge shall record judgment of acquittal. If the accused is convicted, the judge shall pass sentence on him according to law.

F.—Re-trial of Accused after discharge of Jury.

Re-trial of accused after discharge of jury.

318 Whenever the jury is discharged, the accused shall be detained in custody or on bail (as the case may be), and shall be tried by another jury.

G.—Procedure in case of previous Conviction.

Procedure in case of previous conviction.

319 In the case of a trial by jury, where the accused is charged with an offence committed after a previous conviction for any offence, the procedure laid down in sections 283, 297, 298, shall be modified as follows:

(*a*) The part of the indictment stating the previous conviction shall not be read out in court, nor shall the accused be asked whether he has been previously convicted as alleged in the charge, unless and until he has either pleaded guilty to, or been convicted of, the subsequent offence.

(*b*) If he pleads guilty to, or is convicted of, the subsequent offence, he shall then be asked whether he has been previously convicted, as alleged in the charge.

(*c*) If he answers that he has been so previously convicted, the judge may proceed to pass sentence on him accordingly; but if he denies that he has been so previously convicted, or refuses to, or does not, answer such question, the jury shall then inquire concerning such previous conviction, and in such case it shall not be necessary to swear the jurors again.

CHAPTER XXIII.

Of Juries.

Liability to serve as a juror or assessor.

320 Subject to the disqualifications and exemptions contained in the two sections next following, every male person residing within this colony, who is able to speak, read, and write any of the languages following (that is to say)—English, Sinhalese, or Tamil, and who possesses such income or property as is in the section 323 mentioned, shall, whether or not his name is entered in any list of jurors by

the same section directed to be made, be qualified and liable to serve as a juror in the Supreme Court, at any sessions thereof held for the circuit, and as an assessor in the district court of the district within which circuit and district respectively he is a resident; provided that the place where he resides is not distant more than thirty miles, in a straight line, from the place where such sessions or court is holden.

Disqualifications.

321 The following persons are disqualified from serving as jurors in the Supreme Court, or as assessors in a district court, that is to say:

Persons who have been convicted of an infamous crime, and who have not received a free pardon.

Persons who labour under such bodily or mental incapacity, or profess such religious tenets, as renders them unfit to discharge the duty of a juror or assessor.

The judges of the Supreme Court and all persons who hold any office in or under the Supreme Court.

The private secretaries of the judges of the Supreme Court.

Persons under the age of twenty-one years and over the age of sixty years.

District judges and police magistrates.

Advocates and proctors.

Habitual petition-drawers.

All officers of customs and police, and all persons who receive any pay or emolument for executing any duties of customs or police.

All fiscals and their officers.

All prison officers.

Persons actually officiating as priests or ministers of their respective religions.

Every officer of a district court is disqualified from serving as an assessor in the district court of which he is an officer.

Exemptions.

322 The following persons are exempted from liability to serve as jurors in the Supreme Court, or assessors in a district court, that is to say:

The Governor, or person discharging the office of Governor.

Members of the Executive Council.

Members of the Legislative Council.

Members of the personal staff of the Governor.

All persons serving in Her Majesty's army or navy on full pay, or active employment.

All persons duly admitted to practice as physicians, surgeons, surgeon apothecaries, apothecaries, or accoucheurs, in actual practice.

The clerks of the Executive and Legislative Councils. [§ 9, 22 of 1890]

The presidents of village tribunals.

All persons employed in the postal and telegraph department, or in the railway department, or in any police court.

All municipal councillors and members of local boards of health and improvement.

Fiscals to prepare list of persons liable to serve as jurors.

323 The fiscals of the several provinces and circuits of this island shall prepare, or cause to be prepared, in the first week of January in every year, or as soon thereafter as may be, each for his own province, three several lists of the persons resident therein who shall be both qualified and liable, as before mentioned, to serve as jurors and assessors, setting forth their names in full, occupations, and places of residence, that is to say :

English.

(1) A list of persons who can speak, read, and write the English language, and each of whom possesses in his own or his wife's right an income of not less than one thousand rupees a year;

Sinhalese.

(2) A list of persons who can speak, read, and write the Sinhalese language, and each of whom possesses, in his own or his wife's right, property immovable or movable not less than one thousand rupees in value, or an income of five hundred rupees a year ;

Tamil.

(3) A list of persons who can read and write the Tamil language, and each of whom possesses, in his own or his wife's right, property immovable or movable not less than one thousand rupees in value, or an income of five hundred rupees a year ; and also

Special jury.

(4) A list of persons selected from list number (1), each of whom possesses an income of not less than two thousand rupees a year, or, either in his own or in his wife's right, property movable or immovable not less than twenty thousand rupees in value, and who shall be liable to serve as special jurors, as hereinafter prescribed :

Provided always that if any person who shall be able to speak, read, and write more than one of the above-mentioned languages, and shall be in other respects duly qualified, shall at any time declare to the fiscal his desire to be placed on any one of the lists numbered (1), (2), and (3) respectively of his district, in preference to another of the same lists, the fiscal shall, if such person be duly qualified, place him accordingly in such place in such list as to the fiscal shall appear most convenient ; and no person whose name shall be placed on any one of the same three lists shall be liable to serve on any other of the same lists, unless such person, with the leave of the presiding judge, shall consent thereunto. Provided further, that it shall be competent for the Governor, with the advice of the Executive Council, by Proclamation to be by him for that purpose issued, to dispense with the qualification as to income or property, or to reduce the amount thereof in respect of any one or more of the above specified four lists, in any district of this island in which sufficient panels cannot be secured of jurymen having the income or property herein prescribed.

Power of Governor to exempt certain persons from

323 (1) In any district in which it shall appear to the Governor in Executive Council that sufficient panels of jurymen can be secured from any one of the three lists numbered (1), (2), and (3) respectively in section 323, it shall be lawful for him, by Proclamation

in the *Government Gazette*, to order that no person whose name shall be included in such list shall be liable, save and except under the provision contained in the second proviso to section 289, to serve as a juror at any criminal sessions of the Supreme Court more than once in such period as shall be defined in such Proclamation.

(2) The Governor in Executive Council may amend or revoke such Proclamation, but no such amendment or revocation shall take effect until the same is duly proclaimed in the *Government Gazette*.

service for specified periods. [§ *10, 22 of 1890*]

324 The said fiscals shall, as soon as such lists have been so prepared as aforesaid, cause the same to be published in the *Gazette*. But it shall be lawful for the said fiscals, and they are hereby required, from time to time to add to any such list at the end thereof any names which may have been erroneously omitted therefrom, or the names of any persons who may have become, subsequently to the making of any list, qualified to be placed thereupon, and to strike out from any list the names of any persons who may similarly have become permanently exempted or incapacitated from serving as jurors and assessors. Provided that it shall always be lawful for any judge of the Supreme Court, at any criminal sessions thereof holden before him in any province, to order to be added to the said lists for such province the name of any duly qualified person which shall appear to such judge to have been erroneously omitted therefrom, or to be struck out of the said lists the names of any persons which shall appear to such judge to have been erroneously inserted therein, as the case may be.

Lists to be published in *Gazette*.

325 Subject to the right of challenge given by section 290 of this Code, every person whose name shall be included in one of the three lists numbered (1), (2), and (3) respectively in section 323, shall be qualified and liable, for the time being, to serve as a juror at criminal sessions of the Supreme Court.

All persons on list qualified to serve as jurors.

326 On some day, not less than one month before the commencement of each criminal sessions of the Supreme Court, three panels of jurors to be summoned for attendance and service as jurors at such criminal sessions shall be prepared and taken before a judge of the Supreme Court at Colombo in the following manner :

One panel of jurors to be prepared from each list.

From each of the three said lists of jurors which are distinguished by the numbers (1), (2), and (3), published and amended and corrected as aforesaid, which lists shall be transmitted for this purpose to the Registrar of the Supreme Court by the fiscal of the province or circuit for which the said sessions are about to be holden, one panel shall be prepared and taken, and shall be designated by the language which distinguishes the list, together with the name of the particular sessions for which it is formed.

327 Each such panel shall contain eighteen names, and shall be prepared by first entering therein the names of the persons (if any) already ordered under section 330, 337, 342, or 343 of this Ordinance to be so entered, and by then drawing by lot, and entering therein so many more names from the corresponding list of jurors as with those already entered in the panel as hereinbefore provided, will make up the number

How panel to be prepared.

of eighteen persons qualified and liable under the provisions of this chapter to be summoned and to serve as jurors for the said sessions.

Mode of drawing jury.

328 The mode in which the names of the jurors shall be drawn by lot from the list shall be as follows:

Boxes having locks for securely fastening them shall be provided, which boxes shall be divided into two compartments of equal size.

The name of each person on the list of jurors shall be distinctly written, or printed, on a separate slip of paper, the slips to be of the same shape and appearance, and to be folded alike as nearly as may be.

The slips containing the names of each separate list shall then be placed in one compartment of a separate box, which box shall be marked and designated outside with and by the name of the province or circuit, and the number and language which distinguishes the list to which the names in such box shall belong, and it shall be securely locked and be kept in the possession of the Registrar of the Supreme Court, and the key thereof shall be kept by the Chief Justice or presiding judge of the Supreme Court, and it shall not be opened, or any jury drawn therefrom, except in manner herein provided.

Further provisions.

329 On the day fixed for the preparation of the panel, the registrar, after having shaken together the slips of paper in the box containing the names of the list from which the particular panel is to be drawn, shall, in open court, in the presence of a judge of the court, open such box, and proceed to draw from the one compartment promiscuously, and without selection, a sufficient number of the said slips, one by one, until the number of names requisite to complete the panel shall have been obtained. As each slip is drawn the name of the juror written thereon shall be called out aloud, and, subject to the provisions of the next section, shall be entered in the panel of the list to which he belongs, as is hereinafter provided.

Further provisions

330 As each name is so drawn, if it is the name of a person who is known or believed to be dead, or of a person absent from the colony, or of a person likely to be unable, from sickness or other good cause, to attend, or of a person known or believed not to be qualified or liable to serve as a juror, then the judge may order the name to be set aside; and, in every such case, an additional name shall be drawn in lieu of that so set aside, and the judge, if he think fit, may order the name of any person so set aside, unless it be on account of death or disqualification, to be entered in the panel of any subsequent sessions to be then named by him.

Name, addition, and address of juror to be written on panel.

331 The names in full, additions, and places of abode of the several persons included in the panels so prepared for each sessions, shall be written in the respective panels, and numbered in the order in which the said names shall have been drawn, and such panels shall be signed by the judge.

332 After the panel shall have been completed, the slips containing the names so drawn and entered in the panel, as well as the names of any of the persons which have been ordered to be entered in a subsequent panel, shall be again folded and placed in the compartment of the box from which they had not been drawn, and the box shall again be locked, and this shall be repeated as often as any jury or jurors are drawn, until the whole of the names in the one compartment shall have been drawn; when in like manner they shall be drawn out of the second and returned to the first, and so on alternately from time to time, in order that every man qualified and liable to serve on juries may take his turn to serve thereon.

Slips to be replaced in box after jury is drawn.

If any names have been drawn which the judge shall have ordered to be set aside, but which he shall not have ordered to be inserted in a subsequent panel, the slips containing such names, except of persons dead or disqualified, shall be again folded and returned to the compartment from which they were drawn, unless the judge order otherwise.

333 A copy of the panels shall be annexed to a precept to the fiscal, commanding him to summon the persons named in the panels to attend and serve as jurors at the said sessions.

Copy of panels to be annexed to fiscal's precept

334 Every person named in the panels shall forthwith, or as soon as possible after the receipt of the precept by the fiscal, be summoned by him, and such summons, in the case of panels issued under section 333, shall be served at least ten days before the first day of the sessions.

Persons named in panel to be summoned by fiscal.

335 Every summons to a juror shall be in writing, and shall require his attendance as a juror, at a time and place to be therein specified, and shall be served personally.

Jury summons to be in writing.

336 The fiscal shall, as soon as possible after service of summons and not later than ten days before the commencement of the sessions in case of panels issued under section 333, return the precept to the registrar, with the panels annexed thereto and a memorandum showing the particulars of service on each person named in the panel; and if any person or persons named in the panel shall not have been served, the memorandum shall state the fact and the reason why such service has not been effected, and shall be supported by the affidavit of the officer whose duty it was to effect such service.

Precept to be returned to registrar with fiscal's memorandum.

337 On the receipt of such return, the registrar shall, without delay, bring the same before one of the judges of the Supreme Court, who may direct service to be made upon the person or persons not already served, in such manner as may to him seem fit. And the judge may, if he think fit, make an order directing the name of any person returned by the fiscal as not summoned to be entered on the panel for any subsequent sessions to be fixed by the judge.

Registrar to bring return before judge of Supreme Court.

338 If the judge shall be of opinion that the number of jurors returned by the fiscal as served is not likely to be sufficient, he may cause to be drawn, in the manner provided by sections 329 and 330, such further number of names as may

Judge may order further list of jurors to be summoned.

be required to make up the full number of jurors summoned to attend at the sessions to eighteen; and the supplemental panel so formed shall be prepared and signed in the manner hereinbefore provided for the original panel, and a copy thereof shall be sent, with an additional precept, to the fiscal, who shall, as soon as possible after the receipt of such additional precept, cause the persons named therein to be summoned to attend and serve at the sessions; and shall return the precept to the registrar not less than one clear day before the first day of the sessions, with a memorandum similar to that provided by section 336 in respect to the original panel and precept.

And in a similar manner, as nearly as may be, at any criminal sessions of the Supreme Court, the judge before whom the sessions are being held, if and as often as he is of opinion that the number of jurors summoned and attending the sessions is insufficient, may cause a still further number of names to be drawn, and the supplemental panel so formed and signed by him to be sent with a precept to the fiscal, who shall summon the additional jurors and return the precept to the registrar forthwith.

And in a similar manner, the judge may direct a panel of jurors to be drawn at other periods, when the number of trials before the court renders the attendance of one set of jurors for a whole session oppressive, or whenever, for other reasons, such direction is found to be necessary.

Juror not bound to serve more than ten days.

339 No juror shall be compellable to serve more than five days in any one week, or for more than ten days in any one sessions, unless the requisite number cannot be made without him, or unless, at the expiration of the ten days, a trial in which he is engaged as a juror is pending, and then only until the end of such trial.

Special jury panel.

340 Whenever an order shall be made requiring a special jury to be summoned, a panel shall be prepared of such number as the order shall specify, from the list of special jurors numbered (4) in section 323, and thereupon the fiscal shall summon the persons on such panel, and the provisions of sections 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, and 338 shall, *mutatis mutandis* so far as the same may be applicable, apply to the preparation of such panel, and to the summoning and service of the special jury.

Special jurors may be taken to any place in same district.

341 It shall be lawful for any judge of the Supreme Court, upon cause shown, to order that a panel of special jurors summoned from one or more districts be taken to any place in the same district where the criminal sessions of the Supreme Court, for which such panel is prepared under section 340, shall be holden in any district, or in any circuit. Provided that—

(1) No special juror shall be liable to be so taken to serve beyond thirty miles in a straight line from his residence unless with his consent; and

(2) Every juror taken to serve as special juror at any place more than ten miles in a straight line from his residence shall be entitled to his travelling expenses, according to such rates as the Governor, with the advice of the Executive Council, shall from time to time determine.

342 Any person, whose name is included in any panel, may apply to the Registrar of the Supreme Court, asking to be excused from attendance as a juror at the particular session for which the panel is prepared, and stating the grounds on which the application is made. The registrar shall, as soon as possible, bring such application before the judge of the sessions, or some other judge of the Supreme Court, and such judge may make such order thereon as he may think fit.

Person may apply to registrar to be excused from attendance as juror.

343 The judge may, for reasonable cause, excuse any juror from attendance at any particular session, or on any particular day, or days, or time of the day, and either unconditionally, or on condition of his serving at the next or some subsequent session, or some other day, or time, to be fixed by the judge in the order.

Judge may excuse juror from attendance.

344 Any person summoned to attend as a juror or as an assessor, who, without lawful excuse, fails to attend, as required by the summons, or who, having attended, departs without having obtained the permission of the court, or fails to attend after an adjournment of the court, after being ordered to attend, shall be liable by order of the judge to such fine as he thinks fit, and in default of payment of such fine, to imprisonment until the fine is paid.

Juror absenting himself without leave liable to fine.

345 No judgment, sentence, order, verdict, or other proceeding by, of, at, or before the Supreme Court at any criminal sessions thereof, and nothing done in pursuance of the same, shall be held invalid, or illegal, or be in any way called in question by reason of any informality in, or about the preparation, or publication, or amendment of any list or lists of jurors, or of any panel, or by reason of any defect, or error, in or about the qualification or liability of any juror.

No proceeding to be invalid by reason of informality of jury list or panel.

CHAPTER XXIV.

General Provisions as to Inquiries and Trials.

346 In the case of any offence triable exclusively by the Supreme Court or a district court, the police magistrate inquiring into the offence may, after having obtained the Attorney-General's authority so to do, with the view of obtaining the evidence of any person supposed to have been directly or indirectly concerned in, or privy to the offence under inquiry, tender a pardon to such person, on condition

Tender of pardon to accomplice.

of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to such offence; and to every other person concerned, whether as principal or abettor, in the commission thereof.

Every person accepting a tender under this section shall be examined as a witness in the case.

Such person, if not on bail, shall be detained in custody until the termination of the trial by the Supreme or district court, as the case may be.

Power of Attorney-General to direct tender of pardon by police magistrate.

347 The Attorney-General at any time before judgment is passed, may, with the view of obtaining on the trial the evidence of any person supposed to have been directly or indirectly concerned in, or privy to any such offence, tender, or authorize the police magistrate to tender, a pardon on the same condition to such person.

Not complying with condition on which pardon has been tendered.

348 Where a pardon has been tendered under section 346 or 347, and any person who has accepted such tender has, either by wilfully concealing anything essential, or by giving false evidence, not complied with the condition on which the tender was made, he may be tried for the offence in respect of which the pardon was so tendered, or for any other offence of which he appears to have been guilty in connection with the same matter.

If pardon is withdrawn, statement of person may be given in evidence against him.

349 The statement made by a person who has accepted a tender of pardon may be given in evidence against him, when the pardon has been withdrawn under the last preceding section.

No prosecution for the offence of giving false evidence in respect of such statement shall be entertained without the sanction of the Attorney-General.

Right of accused to be defended.

350 Every person accused before any criminal court may of right be defended by a pleader.

Procedure where accused, who is not insane, does not understand proceedings.

351 If the accused, though not insane, cannot be made to understand the proceedings, the court may proceed with the inquiry or trial, and in the case of a court other than the Supreme Court, if such inquiry results in a commitment, or if such trial results in a conviction, the proceedings shall be forwarded to the Supreme Court, with a report of the circumstances of the case, and the Supreme Court shall pass thereon such order as it thinks fit.

Upon the trial of every accused, he shall be informed of his right to make a statement, upon which he may be cross-examined.

352 Upon the trial of every accused person, when the case for the prosecution is ended, the court shall inform the accused, whether he is defended by counsel or not, that he may make any statement he pleases as to the charge against him, and that if he does so he will, after he has made it, be questioned by the counsel for the prosecution, or, if there is no counsel for the prosecution, as the court may direct.

Accused may make statement or be examined.

The accused may either make a statement, or, if he is defended by counsel, he may be examined by his counsel as a witness is examined in chief.

After he has been so examined, or after he has made a statement, the counsel for the prosecution may ask him questions in the same manner as if he were a witness under cross-examination, provided that such questions shall be confined to the matters in issue and matters relevant thereto, and shall not be directed to matters affecting the accused's credit or character.

He may be cross-examined.

The court, and the jury (in cases of trial by jury), with the permission of the court, may ask the accused any question which they might ask of a witness.

Court and jury may ask questions.

After the examination of the accused is ended, his counsel, if he is defended by counsel, may ask him any question by way of re-examination. If he is not defended by counsel, he shall be allowed to make any explanation he pleases of the statement made or answers given by him, and the court, and the jury, with the permission of the court, but not the counsel for the prosecution, may ask him questions thereon.

He may be re-examined.

The accused shall not be sworn or affirmed as a witness, nor be liable for making false statements, either before or during or after his examination.

Accused not to be sworn nor be liable for false statements.

353 Except as provided in sections 346 and 347, no influence, by means of any promise or threat or otherwise, shall be used to an accused person to induce him to disclose or withhold any matter within his knowledge.

No influence to be used to induce disclosures.

354 If from the absence of a witness, or any other reasonable cause, it becomes necessary or advisable to postpone the commencement of or adjourn any inquiry or trial, the court may from time to time order a postponement or adjournment on such terms as it thinks fit, for such time as it considers reasonable, and may remand the accused if in custody, or may commit him to custody or take bail in his own recognizances, or with sureties for his appearance.

Power to postpone or adjourn proceedings.

Provided that no police magistrate shall remand an accused person to custody under this section for a term exceeding seven days at a time, save and except at such police courts as the Governor, with the advice of the Executive Council, shall from time to time proclaim to be police courts at which longer remands may be made, when it shall be lawful to remand accused persons at any such police courts so proclaimed for a term not exceeding twenty-one days.

Remand.

Every order made under this section by a court other than the Supreme Court shall be in writing, signed by the presiding judge or magistrate, and shall state the reasons therefor.

Explanation.—If sufficient evidence has been obtained to raise a suspicion that the accused may have committed an offence and it appears likely that further evidence may be obtained by a remand, this is a reasonable cause for a remand.

Reasonable cause for remand.

355 The offences punishable under the sections of the Ceylon Penal Code described in the first two columns of the table next following, may be compounded by the person mentioned in the third colum of that table.

Compounding offences.

Offence.	Sections of Ceylon Penal Code applicable	Persons by whom Offence may be compounded.
Causing hurt	314, 325	The person to whom the hurt is caused.
Wrongfully restraining or confining any person	332, 333	The person restrained or confined.
Assault, or use of criminal force	343, 346, 349	The person assaulted or to whom the criminal force is used.
Mischief, when the only loss or damage caused is to a private person	409, 410	The person to whom the loss or damage is caused.
Criminal trespass ...	433	The person in possession of the property trespassed upon.
House trespass	434	
Defamation	480	The person defamed.
Printing or engraving matter knowing it to be defamatory	481	
Sale of printed or engraved substance containing defamatory matter knowing it to contain such matter	482	
Insult, intended to provoke breach of the peace	484	The person insulted.
Criminal intimidation, except when punishment exceeds seven years	486	The person intimidated.

[§ *11, 22 of 1890*] The offence of voluntarily causing hurt, voluntarily causing grievous hurt, or causing hurt by an act which endangers life, punishable under sections *315*, 326, 328, or 329 of the Ceylon Penal Code, may, with the permission of the Attorney-General, be compounded by the person to whom the hurt has been caused.

When any offence is compoundable under this section, the abetment of such offence, or an attempt to commit such offence (when such attempt is itself an offence), may be compounded in like manner.

When the person who would otherwise be competent to compound an offence under this section is a minor, an idiot, or a lunatic, any person competent to contract on his behalf may compound such offence.

The compounding of an offence under this section shall have the effect of an acquittal of the accused.

No offence not mentioned in this section shall be compounded.

Detention of offenders attending court.

356 Any person attending a criminal court, although not under arrest or upon a summons, may be detained by such court for the purpose of examination for any offence of which such court can take cognizance, and which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned.

357 When the detention takes place in the course of an inquiry under chapter XVI., or after a trial has been begun, the proceedings in respect of such person shall be commenced afresh, and the witnesses reheard.

When, in such cases, proceedings shall be commenced afresh.

CHAPTER XXV.

Of the mode of taking and recording Evidence in Inquiries and Trials.

358 In all criminal courts complainants and witnesses shall be examined on oath or affirmation, or otherwise, according to the provisions of the law for the time being in force in relation to the examination of witnesses, and, except as otherwise expressly provided, all evidence taken under chapters XVI., XIX., XX., XXI., XXII., shall be taken in the presence of the accused, or, when his personal attendance is dispensed with, in the presence of his pleader.

Complainants and witnesses to be examined on oath.

Provided that if the evidence of any witness shall have been taken in the absence of the accused, whose attendance has not been dispensed with, such evidence shall be read over to the accused in the presence of such witness, and the accused shall have a full opportunity allowed him of cross-examining such witness thereon.

Deposition of witness taken in absence of accused to be read over to him.

[§ 12, 22 of 1890]

359 The evidence of each witness shall be taken down in writing in English by the judge or magistrate, or in his presence and hearing, and under his personal direction and superintendence, and shall be signed by the judge or magistrate.

Evidence to be taken down in writing.

And where the evidence is taken under chapters XVI., XX., and XXI., shall also be signed by the interpreter, if any shall have been employed.

Deposition of witness to be signed by interpreter.

[§ 5, 1 of 1888]

360 The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative; but the judge or magistrate may in his discretion take down any particular question and answer.

In the form of a narrative.

361 Except in the Supreme Court or in a district court, or except in a police court when the police magistrate is taking down evidence under chapter XIX. of this Code, as the evidence of each witness is completed and taken down, as in the last two preceding sections directed, it shall be read over to the witness in open court, in the presence of the accused person, if in attendance, or of his pleader, if he appears by pleader, and shall, if necessary, be corrected.

Procedure in regard to such evidence when completed.

If the witness deny the correctness of any part of the evidence when read over to him, the magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he thinks necessary.

362 When the evidence has been read over to the witness, and every correction, if any, asked for by him has been made or noted, the witness shall be required to subscribe the deposition with his signature.

Witness to sign record of his own evidence.

Interpretation of evidence to accused.

363 In all cases whatever, when the evidence is given in a language not understood by the accused, and he is present in person, it shall be interpreted to him in open court in a language understood by him.

Interpretation of documents put in.

364 When documents are put in for the purpose of formal proof, it shall be in the discretion of the court to cause only so much thereof as appears necessary to be interpreted.

Interpreter to take oath.

365 Every person employed by any court to interpret evidence shall first make oath or solemn affirmation in open court, and in the presence of the accused, that he will render to the court the true interpretation of the evidence.

Provided that in cases where there is an officer of the court, the proper duty of whose office it is to interpret or translate evidence or documents from English into a specified language, and *vice versa*, and who has, on appointment to such office, made oath or affirmation that he will truly and faithfully perform the duties of that office, then such officer may be employed to interpret evidence in criminal cases without conforming to the requirement of this section.

Remarks respecting demeanour of witness.

366 Every judge or magistrate recording the evidence of a witness may record such remarks as he thinks material respecting the demeanour of such witness whilst under examination.

Every accused may be examined on his trial.

367 Every accused person may, on his trial, be examined as is provided by section 352, but no oath or affirmation shall be administered to him.

Power to examine the accused at any stage of an inquiry or trial. [§ *16, 1 of 1888*]

367 (1)* For the purpose of enabling an accused person to explain any circumstances appearing in the evidence against him, the court may at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the court considers necessary, and shall, for the purpose aforesaid, question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. No oath or affirmation shall be administered to the accused.

The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

All questions put to, and answers given by, the accused shall, except in the Supreme Court, be recorded, signed, and certified in the same manner as the examination referred to in sections 368, 369, and 370 of the said Code.

Explanation.—The examination of the accused is for the purpose of enabling him to explain any circumstances appearing in evidence against him, and should, therefore, not be a general examination on whatever might suggest itself to the court. The discretion given by this section for questioning a prisoner is not for the purpose of driving him to make statements criminatory of himself. It can only be properly used for ascertaining from a prisoner how he may be able to meet facts disclosed in evidence against him, so that those facts should not stand against him unexplained. Questions must not, therefore, be put to the prisoner merely to supplement the case for the prosecution when it is defective.

* See section 511 (1) *infra*.

368 Except in the Supreme Court, whenever an accused person makes a statement only, or makes a statement and is examined thereon, as is provided by section 352, the whole of such statement, or statement and examination, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read and interpreted to him in a language he understands, and he shall be at liberty to explain or add to his answers.

How such examination to be recorded.

369 When the whole is made comformable to what he declares is the truth, the statement or statement and examination shall be signed by the accused, and the judge or magistrate shall certify, under his own hand, that it was taken in his presence, and in his hearing, and contains accurately the whole of the statement, or statement and examination, of the accused person.

To be signed by accused and certified by magistrate.

370 The accused person shall be requested to sign or attest, by his mark, such statement, or statement and examination; and in the event of his refusing to do so, the judge or magistrate shall make a memorandum to that effect, signed by himself, at the foot of the statement, or statement and examination.

The accused to be requested to sign and magistrate to record if he refuses.

CHAPTER XXVI.

Of the Judgment.

371 The judgment in every trial in any criminal court shall be pronounced in open court either immediately or at some subsequent time, of which due notice shall be given to the parties or their pleaders, and the accused shall, if in custody, be brought up, or, if not in custody, shall be required to attend to hear judgment delivered, except when his personal attendance during the trial has been dispensed with, and the sentence is one of fine only, in which case it may be pronounced in the presence of his pleader.

Mode of delivering judgment.

372 Except in the Supreme Court, the judgment shall be written by the presiding officer of the court, and shall contain the point or points for determination, the decision thereon, and the reasons for the decision, and shall be dated and signed by the presiding officer in open court at the time of pronouncing it.

Judgment to be written.

Contents of judgment.

It shall specify the offence, if any, of which, and the section of the Ceylon Penal Code or other law under which, the accused is convicted, and the punishment to which he is sentenced.

When the conviction is under the Ceylon Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the court shall distinctly express the same and pass judgment in the alternative.

Judgment in alternative. [§ 6, *1 of 1888*]

If it be a judgment of acquittal, it shall state the offence of which the accused is acquitted, and direct that he be set at liberty.

When a judgment or final order has been so signed it cannot be altered or reviewed (except to correct a clerical error) by the court which gives such judgment.

The judgment or order shall be explained to the accused person or persons affected by it, and a copy thereof shall be given to him without delay if he applies for it, upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council.

The original shall be filed with the record of proceedings.

Sentence of death.

373 When a person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.

CHAPTER XXVII.

Execution.

Respite of sentence of death.

374 In every case where any person shall be adjudged to die by any sentence of the Supreme Court at any criminal sessions, the execution of such sentence shall be respited until such future day as may afford sufficient time for the case of such person to be reported by the judge who shall have presided at such trial to the Governor, and for the same to receive the consideration of the Governor. Such report shall be made as soon after the passing of such sentence as conveniently may be. If the Governor shall not see fit to pardon the offender, or to further respite the execution of the offender, or to commute his said sentence, the same shall be carried into execution by the fiscal, or deputy fiscal, of the province or district within which such sentence shall be pronounced, or by any other fiscal or deputy fiscal as the judge pronouncing the sentence, or the Governor, shall direct, on the day to which such sentence shall have been respited.

Execution of sentence of death.

(*a*) The sentence of death shall be carried into effect within the walls of the prison in which the prisoner is confined at the time of the execution.

(*b*) The fiscal charged with the execution, the jailer, the medical officer of the prison, and such other officers as the fiscal requires shall be present at the execution.

(*c*) Any justice of the peace for the colony, any minister of religion in attendance at the prison, and such relations of the prisoner, or other persons as it seems to the superintendent of the prison proper to admit within the prison for the purpose, being also present at the execution.

(*d*) As soon as may be after judgment of death has been executed, the medical officer shall examine the body of the person executed and shall ascertain the fact of death, and shall sign a certificate thereof and deliver the same to the fiscal.

(*e*) The fiscal and jailer of the prison and such justices and other persons present as may be required or allowed shall also sign a declaration to the effect that judgment of death was executed in their presence on the prisoner who had been executed.

(*f*) The police magistrate of the district shall within twenty-four hours after the execution hold an inquiry as provided for by this Code, and shall inquire into and satisfy himself of the identity of the body, and whether judgment of death was duly executed thereon, and he shall make a report as required by the 192nd section of the Code, in duplicate: one of the originals shall be forwarded to and filed in the office of the Attorney-General, and the other shall be forwarded to and filed in the office of the Colonial Secretary. The Governor in Executive Council shall from time to time make such rules and regulations to be observed in the execution of the judgment of death in every prison as may from time to time be deemed expedient for the purpose, and for guarding against any abuse in such execution, as also for giving greater solemnity to the same and making it known without the prison walls that such execution is taking place.

(*g*) The omission to comply with any of the foregoing provisions shall not make the execution of the judgment of death illegal in any case where such execution would otherwise have been legal.

In case of pregnant woman.

375 If sentence of death is passed upon any woman she may move an arrest of execution on the ground that she is pregnant. If such a motion is made, the court shall direct one or more medical practitioners to be sworn to examine the woman in some private place, either together or successively, and to inquire whether she is with child of a quick child or not. If upon the report of any of them it appears to the court that she is so with child, execution shall be arrested until she is delivered of a child, or until it is no longer possible in the course of nature that she should be delivered.

Escape of person sentenced to death.

376 When a sentence of death is avoided by the escape of the person sentenced to death, execution of such sentence shall be carried into effect at such other time after his recapture as the Supreme Court shall order.

Execution of sentence of imprisonment.

Warrant of commitment.

377 Where the accused is sentenced to imprisonment, the court passing the sentence shall forthwith cause a warrant of commitment to be made out, signed by the judge or magistrate who passed sentence, and dated of the day when the sentence was passed. The warrant shall be directed to the fiscal or deputy fiscal for the district in which the court of trial is situated, and the convicted person, together with the warrant, shall forthwith be forwarded to the prison of such district, unless the accused is already confined in such prison, and the officer in charge of such prison shall receive him on behalf of such fiscal or deputy fiscal.

Sentence of person already in prison.

If the convicted person be already under sentence of imprisonment, he may be returned to the prison in which he is undergoing such imprisonment.

The warrant shall be lodged with the jailer.

Sentence or fine.

378 Whenever an offender is sentenced to pay a fine, the court passing the sentence may in its discretion issue a warrant for the levy of the amount by distress and sale of any movable property belonging to the offender, although the sentence directs that in default of payment of the fine the offender shall be imprisoned.

Warrant of distress to be directed to fiscal

379 Every warrant of levy and distress shall be directed to the fiscal.

Where such warrant may be executed.

380 Such warrant may be executed within the local limits of the jurisdiction of such court, and it shall authorize the distress and sale of any such property without such limits when endorsed by the district judge or police magistrate within the local limits of whose jurisdiction such property is found.

Execution of sentence may be suspended on execution of bond by offender.

381 When an offender has been sentenced to fine only, and to imprisonment in default of payment of the fine, and the court issues a warrant under section 378, it may suspend the execution of the sentence of imprisonment, and may release the offender on his executing a bond, with or without sureties as the court thinks fit, conditioned for his appearance before such court on the day appointed for the return to such warrant, such day not being more than fifteen days from the time of executing the bond; and in the event of the fine not having been realized, the court may direct the sentence of imprisonment to be carried into execution at once.

Who may issue* warrant

382 Every warrant for the execution of any sentence may be issued, either by the judge or magistrate who passed the sentence or by his colleague or successor in office.

When and where sentence of whipping to be executed.

383 When the accused is sentenced to whipping, the sentence shall be executed within the precincts of a prison, at such time as the court may direct.

In appeal cases, whipping not to be inflicted until after ten days.

384 When the accused is sentenced to whipping in a case which is subject to appeal, the whipping shall not be inflicted until ten days from the date of the sentence, or, if an appeal be made within that time, until the sentence is confirmed by the appellate court; but the whipping shall be inflicted as soon as practicable after the expiry of the ten days, or, in case of an appeal, as soon as practicable after the receipt of the order of the appellate court confirming the sentence.

In whose presence whipping to be inflicted

385 The punishment shall be inflicted in the presence only of a medical officer, such of the prison officials as may be necessary, and any person or persons whom the Governor may appoint.

Whipping not to be by instalments

386 No sentence of whipping shall be executed by instalments.

387 The punishment of whipping shall not be inflicted unless the medical officer certifies that the offender is in a fit state of health to undergo the punishment.

Nor unless medical officer certifies that offender is in a fit state of health.

If during the execution of a sentence of whipping, a medical officer certifies that the offender is not in a fit state of health to undergo the remainder of the punishment, the whipping shall be finally stopped.

388 In any case in which, under the immediately preceding section, a sentence of whipping is wholly or partially prevented from being carried into execution, the offender shall be kept in custody till the court which passed the sentence can revise it; and the said court may, at its discretion, either order the discharge of such offender or sentence him, in lieu of whipping, or in lieu of so much of the sentence of whipping as was not carried out, to imprisonment for any term not exceeding that to which the court is competent to inflict, which may be in addition to any other punishment to which he may have been sentenced for the same offence.

When sentence of whipping cannot be carried out offender may be discharged.

Nothing in this section shall be deemed to authorize any court to inflict imprisonment for a term exceeding that to which the accused is liable by law, or that which the said court is competent to inflict.

388 (1) Whenever a male offender under twelve years of age is sentenced by any court to whipping without any other punishment in addition thereto for any offence either under the Ceylon Penal Code or any other Ordinance in force in this colony, such whipping, which shall in no case exceed ten strokes with a light cane or rattan, shall be inflicted forthwith within the court premises and in the presence, if he desires to be present, of the parent or guardian of such offender. Provided that such whipping shall not be inflicted unless it appears to the court that the offender is in a fit state of health to undergo the same.

Whipping of juvenile offenders under twelve years of age. [§ *21, 1 of 1888*]

Proviso.

389 No. convict shall, by reason of his escape from prison avoid any unexpired term of imprisonment, simple or rigorous, or any other punishment to which he was liable under any sentence or sentences passed on him prior to his escape.

Sentences on escaped convict. [§ *7, 1 of 1888*]

When sentence is passed on an escaped convict of death, or of fine or whipping with or without imprisonment, such sentence of death, fine, or whipping shall, subject to the provisions hereinbefore contained, take effect immediately; and if the imprisonment under the new sentence is rigorous, and such convict was undergoing only simple imprisonment when he escaped, the rigorous imprisonment shall take effect immediately, and shall be enforced concurrently with the former sentence; but if such convict was undergoing rigorous imprisonment when he escaped, the rigorous imprisonment under the new sentence shall take effect after such convict has suffered rigorous imprisonment for a further period, commencing from the date of his recapture, equal to that which at the time of his escape remained unexpired of his former sentence.

390 When a person already undergoing a sentence of imprisonment is sentenced to imprisonment, such imprisonment shall commence at the expiration of the imprisonment to which he has been previously sentenced.

Sentence on offender already sentenced for another offence.

Saving as to sections 389 and 390.

391 Nothing in section 389 or section 390 shall be held to excuse any person from any part of the punishment to which he is liable upon his former or subsequent conviction.

Confinement of youthful offenders in reformatories.

392* When any person under the age of sixteen years is sentenced by any criminal court to imprisonment for any offence, the court may direct that such person instead of being imprisoned in a criminal prison shall be confined in any reformatory established by Government as a fit place for confinement, in which there are means of suitable discipline and of training in some branch of useful industry, or which is kept by a person willing to obey such rules as the Government prescribes with regard to the discipline and training of persons confined therein.

All persons confined under this section shall be subject to the rules so prescribed.

Certain sections of Ceylon Penal Code to apply to all offences.

393 The provisions of sections 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, and 67 of the Ceylon Penal Code shall apply to all offences whatever.

Return of warrant on execution of sentence.

394 When a sentence has been fully executed, the officer executing it shall return the warrant to the court from which it issued, with an endorsement under his hand certifying the manner in which the sentence has been executed.

CHAPTER XXVIII.

Of Suspensions, Remissions, and Commutations of Sentences.

Governor may suspend or remit sentences.

395 When any person has been sentenced to punishment for an offence, the Governor may at any time, without conditions, or upon any conditions which the person sentenced accepts, suspend the execution of his sentence, or remit the whole or any part of the punishment to which he has been sentenced.

May require presiding judge to make report.

396 Whenever an application is made to the Governor for the suspension or remission of a sentence, the Governor may, if he desires to do so, require the presiding judge of the court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion.

Person failing to fulfil conditions prescribed may be arrested.

397 If the person in whose favour a sentence has been suspended or remitted fails to fulfil the conditions prescribed by the Governor, the Governor may cancel such suspension or remission; whereupon such person may, if at large, be arrested by any police officer, without warrant, and remanded to undergo the unexpired portion of the sentence.

Nothing herein contained shall be deemed to interfere with the right of Her Majesty to grant pardons, reprieves, respites, or remissions of punishment.

* This section is repealed where No. 1 of 1886 is in force.

398 The Governor may, without the consent of the person sentenced, commute any one of the following sentences for any other mentioned after it :

Governor may commute sentence.

Death; rigorous imprisonment not exceeding twenty years; rigorous imprisonment; simple imprisonment for any term not exceeding that to which such person might have been sentenced; fine.

CHAPTER XXIX.

Of previous Acquittals or Convictions.

399 A person who has once been tried by a court of competent jurisdiction for an offence, and convicted or acquitted of such offence, shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other offence for which a different charge from the one made against him might have been made under section 210, or for which he might have been convicted under section 211.

No person to be tried twice for same offence.

A person acquitted or convicted of any offence may be afterwards tried for any distinct offence for which a separate charge might have been made against him on the former trial under section 209, paragraph 1.

A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last mentioned offence, if the consequences had not happened or were not known to the court to have happened at the time when he was convicted.

A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed, if the court by which he was first tried was not competent to try the offence with which he is subsequently charged.

Explanation.—The dismissal of a complaint, the stopping of proceedings under section 159, the discharge of the accused, or any entry made upon a charge under section 278, is not an acquittal for the purposes of this section.

Illustrations.

(*a*) A is tried upon a charge of theft as a servant, and acquitted. He cannot afterwards, while the acquittal remains in force, be charged with theft as a servant, or upon the same facts with theft simply, or with criminal breach of trust.

(*b*) A is tried upon a charge of murder, and acquitted. There is no charge of robbery, but it appears from the facts that A committed robbery at the time when the murder was committed. He may afterwards be charged with and tried for robbery.

(*c*) A is tried for causing grievous hurt, and convicted. The person injured afterwards dies. A may be tried again for culpable homicide.

(*d*) A is charged and convicted of the culpable homicide of B. A may not afterwards be tried on the same facts for the murder of B.

(*e*) A is charged with and convicted of voluntarily causing hurt to B. A may not afterwards be tried for voluntarily causing grievous hurt to B on the same facts, unless the case comes within paragraph 3 of this section.

(*f*) A is charged with and convicted of theft of property from the person of B. A may be subsequently charged with and tried for robbery on the same facts.

PART VII.

OF APPEAL, REFERENCE, AND REVISION.

CHAPTER XXX.

Of Appeals.

No appeal to lie except as provided for.

400 No appeal shall lie from any judgment or order of a criminal court, except as provided for by this Code, or by any other law for the time being in force.

Of Appeals to the Queen in Council.

Appeals to the Queen.

401 Nothing herein contained may, or can, take away or abridge the undoubted right and authority of Her Majesty to admit or receive any appeal from any judgment, decree, sentence, or order of the Supreme Court, or any criminal court on behalf of Her Majesty, or of any person aggrieved thereby, in any case in which, and subject to any conditions or restrictions upon or under which, Her Majesty may be graciously pleased to admit or receive any such appeal.

Duty of all courts in such cases.

402 The Supreme Court, and all courts from which an appeal shall be taken in any criminal matter, shall in all cases of appeal to Her Majesty conform to, execute, and carry into immediate effect such judgments and orders as Her Majesty in Council shall make thereupon, in such manner and by such procedure as any original judgment, decree, or order of such court can, or may, be executed.

CHAPTER XXXI.

Appeals from District or Police Courts to the Supreme Court.

No appeal after plea of guilty.

403 When an accused person has pleaded guilty, and been convicted by a district or police court on such plea, there shall be no appeal.

No appeal from district or police courts against acquittal, except at the instance of Attorney-General.

[§ 3, 1 of 1888]

404 When an accused person has been acquitted by a district or police court there shall be no appeal, except at the instance of the Attorney-General, *who may file his petition of appeal in the court in which such judgment of acquittal has been pronounced within twenty-one days from the date of such judgment.*

Nor for certain sentences of district or police courts.

405 Except as excepted in the last preceding section, there shall be no appeal from a district court in cases in which such court passes a sentence of imprisonment not exceeding three months, or fine not exceeding one hundred rupees; nor from a police court in cases in which such court passes a sentence of imprisonment not exceeding one month, or fine not exceeding twenty-five rupees; unless upon a matter of law, or unless with the leave of the court.

Explanation.—There is no appeal from a sentence of imprisonment passed by either of such courts in default of payment of fines to the above amounts when no substantive sentence of imprisonment has been passed.

Right of appeal.

406 Except in the cases referred to in the sections 403, 404, and 405, any person who shall be dissatisfied with any judgment, sentence, or order pronounced by any police court or district court in a criminal case or matter to which he is a party, may prefer an appeal to the Supreme Court against such judgment, sentence, or order, for any error in law or in fact, by lodging, within ten days from the time of such judgment, sentence, or order being passed or made, with the chief clerk of such police court, or with the secretary of such district court, as the case may be, a petition of appeal addressed to the Supreme Court.

What it shall state.

Stamp fees.

407 Every petition of appeal shall be addressed to the Supreme Court, and shall state shortly the substance of the judgment appealed against and the grounds of appeal, and shall bear a stamp of five rupees. Provided the court from whose judgment, sentence, or order an appeal is preferred shall, if it see fit, allow the payment of the stamp fee to stand over until judgment on the appeal shall have been given. If the appeal be given in whole or in part in favour of the appellant, the amount of stamp fee, when such has been paid, shall be returned to him. If the appeal be given against him, such stamp fee, when such has not been paid, shall be paid by him or recovered from him in the way of fine, unless the Supreme Court shall deem fit to remit all or any part of such stamp fee, in which case only such part as shall not be so remitted shall be recovered.

On appeal sentence to be suspended.

408 When an appeal has been preferred under section 406, the court from whose judgment, sentence, or order the appeal has been preferred shall order the appellant if in custody to be released on bail; and thereupon the sentence passed on the appellant, with the exception, in the case of the appellant not being able to furnish the required bail, of so much of it as directs the appellant to be kept in custody, shall be suspended until the judgment of the court of appeal shall be made.

Proceedings to be forwarded to Supreme Court.

409 On a petition of appeal being lodged, the district judge or police magistrate, as the case may be, shall transmit the proceedings, with the evidence in the case, to the Supreme Court, including the petition of appeal, together with a certificate signed by such judge or magistrate.

Notice to be given to other side.

Also, when the appeal is asserted in the first instance by petition, the police court or district court shall forthwith issue notice thereof to the party, whether complainant or

accused person, in whose favour the judgment, sentence, or order appealed against was pronounced or made, or adversely to whom the appeal is preferred.

Procedure in Supreme Court on appeal.

410 When the proceedings and evidence, with the petition of appeal, have been transmitted to the Supreme Court by the lower court, the registrar shall, unless the court otherwise orders, number the appeal and enter it in the roll of causes for hearing according to the standing orders of court for the time being relative to the course of the business of the court, and the matter of the appeal shall come on for hearing before the court in the order of its position in that roll and according to the said standing orders, without further notice to the parties concerned; provided that a list of the appeals pending before the court in their order on the roll, or of a sufficient number of them, be daily kept suspended upon the doors of the court, and that no appeal shall come on for hearing until it has been in that list for at least six complete days, and provided also that the court may, of its own motion or on the application of a party concerned, and with reasonable notice to the parties, accelerate or postpone the hearing of an appeal upon any such terms, as to the prosecution or the costs of the appeal, or otherwise, as it may think fit.

Appellant to be heard first.

411 When the appeal comes on for hearing, usually the appellant shall be first heard in support of the appeal, and then the respondent if present shall be heard against it; but the appellant shall have no right of reply.

If the appellant does not appear to support his appeal, the court may either dismiss the appeal or make such order thereon as it may deem fit.

Procedure if respondent not present.

412 If at the hearing of the appeal the respondent is not present, and the court is not satisfied upon the affidavits returned by the fiscal or other evidence that the notice of appeal was duly served upon him, then the court shall not make any order in the matter of the appeal adverse to, or to the prejudice of, the respondent, but shall adjourn the hearing of the appeal to a future day, for his appearance, and shall issue the requisite notice to him for service through the fiscal.

Arrest of accused in appeal from acquittal.

413 When an appeal is presented against an acquittal, the Supreme Court may issue a warrant directing that the accused be arrested and brought before it, and may commit him to prison pending the disposal of the appeal, or admit him to bail.

Power of Supreme Court on appeals.

414 Upon and after the hearing of the appeal, the Supreme Court may, as to it may seem best to accord with law and to secure the ends of justice, affirm in its entirety the judgment, sentence, or order which is appealed from, or vary, or modify it in any manner, or may set it aside, and, in lieu thereof, pass any other lawful judgment, sentence, or order; or it may quash the proceedings, or any part of the proceedings of the court of first instance, or remit the case to the court of first instance for re-trial, *de novo*, or for new

trial, subject to specified directions or conditions—as to the alteration of the charge or otherwise, or for re-taking of evidence which has been before adduced in the case, or for taking new evidence, or for trial upon any specified charge or charges, issue or issues, or for carrying into effect any other order of the Supreme Court; and the Supreme Court may transfer the case to any other competent court (inclusive of the Supreme Court itself) for the purpose of such re-trial, whether partial or *de novo*.

Supreme Court may transfer case.

415 In dealing with an appeal under this chapter, the Supreme Court, if it thinks additional evidence to be necessary, may either take such evidence itself or order such evidence to be taken on circuit, or otherwise, by a judge of the court without the aid of a jury, or by any judge of a district court, or by a police magistrate; and it shall be competent for the judge or police magistrate to take all or any such additional evidence, and it shall thereupon be the duty of such judge or magistrate to transmit the evidence so taken, duly certified, to the court of appeal.

Appellate court may take further evidence or direct it to be taken.

Unless the Supreme Court otherwise direct, the accused or his pleader shall be present when any additional evidence is taken under this and the last preceding section.

The taking of such evidence shall, for the purposes of chapter XVI., be deemed an inquiry.

416 On the termination of the hearing of the appeal, the Supreme Court shall, either at once or on some future day, which shall either then be appointed for the purpose, or of which notice shall subsequently be given to the parties, deliver judgment in open court; and if the bench hearing the appeal is composed of more than one judge, each judge may, if he desires it, deliver a separate judgment.

Judgment in appeal to be given in open court.

417 The judgment of the Supreme Court shall be passed in accordance with the opinion of the presiding judge, or, if there be more than one judge, with the opinions of the judges of which the bench hearing the appeal is composed, if they are unanimous in regard to it; but if otherwise, in accordance with the opinions of the majority of them.

And to be in accordance with opinions of the majority of the judges.

418 A record of the judgment shall be signed and dated by the judges according to whose opinion or opinions it is passed:

Record of judgment to be signed.

It shall state generally—

(*a*) The points which have come before the court for determination.

(*b*) The decision of the judge or judges.

(*c*) The reasons which have led to the decision.

(*d*) The relief, if any, to which the appellant is entitled on the appeal in consequence of the decision.

(*e*) The amount of costs, if any, incurred in the appeal, and by what parties and in what proportions such costs and other costs of the trial are to be paid.

Procedure where two judges hearing appeal disagree.

419 When the bench hearing the appeal is composed of two judges, and the judges composing the bench do not agree, then the appeal shall be re-heard by the full court of three judges, on a day specially appointed for the purpose, of which notice shall be given to the parties. And after such re-hearing, any judge dissenting from the judgment which the majority consider ought to be passed on appeal, shall state in writing the judgment which he thinks ought to be made, and his reasons for the same.

When judges do not agree, each to deliver his own opinion.

420 When all the judges of which the bench hearing the appeal is composed do not concur in the judgment to be pronounced, then the judges shall deliver their opinions in order of seniority, commencing with the judge who is junior in rank, but if otherwise they shall pronounce their opinions in the reverse order.

Record of judgment to be sealed.

421 A record of the judgment after being signed and dated by the judge or judges according to whose opinion or opinions it is passed, shall be sealed with the seal of the court.

Proceedings to be returned to court below.

422 As soon as the record of the judgment is sealed, all the proceedings in the case sent up to the Supreme Court on appeal, together with the petition of appeal and order thereon (if any), and a copy of the record of the judgment pronounced on appeal, shall be forthwith returned to the court of first instance, which shall conform to and execute such judgment in all particulars.

Abatement of appeals.

423 Every appeal against an acquittal shall finally abate on the death of the accused, and every other appeal under this chapter shall finally abate on the death of the appellant.

CHAPTER XXXII.

Of Reference and Revision.

Power to reserve questions arising in original jurisdiction of Supreme Court.

424 When any person has, in a trial before the Supreme Court, acting in the exercise of its original criminal jurisdiction, and holding a criminal sessions thereof, been convicted of an offence, the court, if it thinks fit, may reserve, and refer for the decision of a court consisting of two or more judges of the Supreme Court, any question of law which has arisen in the course of the trial of such person and the determination of which would affect the event of the trial.

Procedure where question reserved.

If the court reserves any such question the person convicted shall, pending the decision thereon, be remanded to prison, or, if the court think fit, be admitted to bail.

Power of court to review.

425 The Supreme Court shall have power to review the case, or such part of it as may be necessary, and finally determine such question, and thereupon to alter the sentence passed by the court of original jurisdiction, and to pass such judgment or order as to it may seem fit.

426 The Supreme Court may call for and examine the record of any case, whether already tried or pending trial, in any court, for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed therein, or as to the regularity of the proceedings of such court, and upon revision of the case so brought before it the Supreme Court may pass any sentence, or make any order which it might have made had the case been brought before it in due course of appeal instead of by way of revision.

Supreme Court may call for record of any court.

Nothing in this section shall be deemed to authorize the Supreme Court to convert a finding of acquittal into one of conviction.

427 No party has any right to be heard, either personally or by pleader, before the Supreme Court, when exercising its powers of reference or revision. Provided that the court may, if it thinks fit, when exercising such powers, hear any party either personally or by pleader. And provided also that no order shall be made to the prejudice of an accused unless he has had an opportunity of being heard, either personally or by pleader.

Optional with court to hear parties on review.

428 When the record of any case is called for by the Supreme Court, under section 426, the judge or magistrate may submit, with the record, a statement setting forth the grounds of his decision or order, and any facts which he thinks material to the issue; and the court shall consider such statement before overruling or setting aside the said decision or order.

When record called for, judge or magistrate may forward statement of grounds of decision.

429 When a case is revised under this chapter by the Supreme Court, it shall certify its decision or order to the court by which the finding, sentence, or order revised was recorded or passed; and the judge or magistrate to whom the decision is so certified shall thereupon make such orders as are conformable to the decision so certified, and, if necessary, the record shall be amended in accordance therewith.

Judge or magistrate to carry into effect orders of Supreme Court.

430 If a sentence of imprisonment is affirmed, any time during which the appellant may have undergone imprisonment under section 424 shall be computed as part of the sentence.

As to unexpired imprisonment where sentence of imprisonment affirmed.

PART VIII.

CHAPTER XXXIII.

Lunatics.

431 When a police court, holding an inquiry or a trial, has reason to believe that the accused is of unsound mind, and consequently incapable of making his defence, the police court shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the government medical officer of the district, or some other medical officer, and thereupon shall examine such officer as a witness, and shall reduce the examination to writing.

Procedure in case of accused being a lunatic.

If the police court is of opinion that the accused is of unsound mind, and consequently incapable of making his defence, it shall postpone further proceedings in the case.

Procedure in case of person committed before superior court being a lunatic.

432 If any person committed for trial before a superior court appears to the court at his trial to be of unsound mind, and consequently incapable of making his defence, the jury, or the district court, with or without the aid of assessors, shall, in the first instance, try the fact of such unsoundness and incapacity, and, if satisfied of the fact, shall pass judgment accordingly, and thereupon the trial shall be postponed.

The trial of the fact of the unsoundness of mind and incapacity of the accused shall be deemed to be part of his trial before the court.

Release of lunatic pending investigation or trial.

433 Whenever an accused person is found to be of unsound mind, and incapable of making his defence, the court, if the case is one in which bail may be taken, may release him on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the court, or such officer as the court appoints in this behalf.

Custody of lunatic.

If the case is one in which bail may not be taken, or if sufficient security is not given, the court shall report the case to the Governor, and the Governor may order the accused to be confined in a lunatic asylum or other suitable place of safe custody, and the court shall give effect to such order.

Resumption of inquiry or trial.

434 Whenever an inquiry or a trial is postponed under section 431 or section 432, the court may at any time resume the inquiry or trial, and require the accused to appear or be brought before such court.

When the accused has been released under section 433, and the sureties for his appearance produce him to the officer whom the court appoints in this behalf, the certificate of such officer that the accused is capable of making his defence shall be receivable in evidence.

Procedure on accused appearing before police or superior court.

435 If, when the accused appears or is again brought before the court, the court considers him capable of making his defence, the inquiry or trial shall proceed.

If the court considers the accused person to be still incapable of making his defence, the court shall again act according to the provisions of section 431 or section 432, as the case may be.

When accused appears to have been insane.

436 When the accused appears to be of sound mind at the time of the inquiry, and the police court is satisfied, from the evidence given before the court, that there is reason to believe that the accused committed an act which if he had been of sound mind would have been an offence, and that he was at the time when the act was committed, by reason of unsoundness of mind, incapable of knowing the nature of

the act, or that it was wrong or contrary to law, the court shall proceed with the case, and, if the accused ought to be committed for trial, send him for trial before the Supreme Court or district court, as the case may be.

Judgment of acquittal on ground of lunacy.

437 Whenever any person is acquitted upon the ground that, at the time at which he is alleged to have committed an offence, he was, by reason of unsoundness of mind, incapable of knowing the nature of the act alleged as constituting the offence, or that it was wrong or contrary to law, the finding shall state specifically whether he committed the act or not.

Person acquitted on such ground to be kept in safe custody.

438 Whenever such judgment states that the accused person committed the act alleged, the court before which the trial has been held shall, if such act would, but for the incapacity found, have constituted an offence, order such person to be kept in safe custody in such place and manner as the court thinks fit, and shall report the case for the orders of the Governor.

The Governor may order such person to be confined in a lunatic asylum, prison, or other suitable place of safe custody.

Lunatic prisoners to be visited by Inspector-General.

439 When any person is confined under the provisions of section 433 or section 438, the Inspector-General of Prisons, if such person is confined in a prison, or the visitors of the lunatic asylum or any two of them if he is confined in a lunatic asylum, may visit him in order to ascertain his state of mind; and he shall be visited once at least in every six months by such Inspector-General, or by two of such visitors as aforesaid, and such Inspector-General, or visitors, shall make a special report to the Governor as to the state of mind of such person.

Procedure where lunatic prisoner is reported capable of making his defence.

440 If such person is confined under the provisions of section 433, and such Inspector-General, or visitors, shall certify that in his, or their, opinion such person is capable of making his defence, he shall be taken before the court at the instance of which he was confined, at such time as such court appoints, and the court shall deal with such person under the provisions of section 435, and the certificate of such Inspector-General or visitors as aforesaid shall be receivable as evidence.

Procedure where lunatic confined under sections 433 or 438 is declared fit to be discharged.

441 If such person is confined under the provisions of section 433 or section 438, and such Inspector-General, or visitors, shall certify that in his, or their, judgment he may be discharged without danger of his doing injury to himself or to any other person, the Governor may thereupon order him to be discharged, or to be detained in custody, or to be transferred to a public lunatic asylum, if he has not been already sent to such an asylum; and in case the Governor orders him to be transferred to an asylum, may appoint a commission consisting of a judicial and two medical officers.

Such commission shall make formal inquiry into the state of mind of such person, taking such evidence as is necessary, and shall report to the Governor, who may order his discharge or detention as he thinks fit.

Delivery of lunatic to care of relative.

442 Whenever any relative or friend of any person confined under the provisions of section 433 or section 438 desires that the person shall be delivered over to his care and custody, the Governor, upon the application of such relative or friend, and on his giving security to the satisfaction of the Governor that the person delivered shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may order such person to be delivered to such relative or friend.

Whenever such person is so delivered, it shall be upon condition that he shall be produced for the inspection of such officer and at such times as the Governor directs.

The provisions of sections 439 and 441 shall *mutatis mutandis* apply to persons delivered under the provisions of this section, and the certificate of the inspecting officer appointed under this section shall be receivable as evidence.

Persons suspected to be lunatics where and how to be remanded.

[§ 20, 1 of 1888]

442 (1) Whenever a magistrate or judge in proceeding under this chapter has occasion to subject any accused person who is suspected to be of unsound mind to medical observation, he shall remand such person once or oftener for such reasonable time as shall be specified in the order of remand, either to the custody of the fiscal to be by him detained in prison, or of the officer in charge of such house or place of observation as may be appointed by the Governor under the provisions of section 6 of "The Lunacy Ordinance, 1873," to be by such officer detained in such house or place of observation. And every person so remanded shall be subject to the inspection of the medical officer of the prison, or of the house or place of observation, in which he may be detained.

CHAPTER XXXIV.

Proceedings in case of certain Offences affecting the Administration of Justice.

Procedure in cases mentioned in section 149.

443 When any civil or criminal court is of opinion that there is ground for inquiring into any offence referred to in section 149, and committed before it, or brought under its notice in the course of a judicial proceeding, such court, after making any preliminary inquiry that may be necessary, may send the case for inquiry or trial to the nearest police court, and may send the accused in custody, or take sufficient security for his appearance before such police court, and may bind over any person to appear and give evidence on such inquiry or trial.

Such police court shall thereupon proceed according to law.

Power of Supreme Court as to such offences committed before itself.

444 The Supreme Court may charge a person for any offence referred to in section 149, and committed before it, or brought under its notice in the course of a judicial proceeding, and may commit, or admit to bail, and try such person upon its own charge.

Such court may direct any police court to cause the attendance of any witnesses for the purposes of the trial.

445 Whenever any such offence as is described in sections 173, 176, 177, 178, or 223 of the Ceylon Penal Code is committed, in view or presence of any court, criminal or civil, such court may cause the offender to be detained in custody, and at any time before the rising of the court on the same day, may, if it thinks fit, take cognizance of the offence and sentence the offender: if the Supreme Court, to such punishment as may by law be imposed for the offence; if a district court, to a fine not exceeding one hundred rupees, and in default of payment, to simple imprisonment, which may extend to two months, unless such fine be sooner paid; if a court of requests, or a police court, to a fine not exceeding twenty-five rupees, and in default of payment, to simple imprisonment for one month, unless such fine be sooner paid.

Procedure in certain cases of contempt.

446 In every such case the court shall record the facts constituting the offence, with the statement (if any) made by the offender, as well as the finding and sentence.

Record in such cases.

If the offence is under section 223 of the Ceylon Penal Code, the record, except in the Supreme Court, must show the nature and stage of the judicial proceeding in which the court interrupted or insulted was sitting, and the nature of the interruption or insult.

447 If the court in any case considers that a person accused of any of the offences referred to in section 445, and committed in its view or presence, should be punished otherwise than there provided, or such court is, for any other reason, of opinion that the case should not be disposed of under section 445, such court, after recording the facts constituting the offence and the statement of the accused as hereinbefore provided, may forward the case to a police court having jurisdiction to inquire into the same, and may require security to be given for the appearance of such accused person before such police court, or, if sufficient security is not given, shall forward such person under custody to such police court.

Procedure where court considers case should not be dealt with under section 445.

The police court to which any case is forwarded under this section shall proceed to hear the complaint against the accused person in manner hereinbefore provided.

448 When any court has, under section 445, adjudged an offender to punishment for refusing or omitting to do anything which he was lawfully required to do or for any intentional insult or interruption, the court may in its discretion discharge the offender or remit the punishment on his submission to the order or requisition of such court, or on apology being made to its satisfaction.

Discharge of offender on submission or apology.

449 If any witness before a criminal court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the court requires him to produce, and does not offer any reasonable excuse for such refusal, such court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the magistrate or judge commit him to

Imprisonment or committal of person refusing to answer or produce document

custody, for any term not exceeding seven days, unless in the meantime such person consents to be examined, and to answer or to produce the document. In the event of his persisting in his refusal, he may be dealt with according to the provisions of section 445 or section 447, and, in the case of the Supreme Court, shall be deemed guilty of a contempt.

Appeals from convictions in contempt cases.

450 Any person sentenced by any court under section 445 or section 449 may, notwithstanding anything hereinbefore contained, appeal to the court to which judgments or orders made in such court are ordinarily appealable.

The provisions of chapter XXX. shall, so far as they are applicable, apply to appeals under this section.

Certain judges and magistrates not to try offences referred to in section 149 when committed before themselves.

451 Except as provided in sections 444, 445, and 449, no judge of a criminal court or magistrate other than a judge of the Supreme Court shall try any person for any offence referred to in section 149, when such offence is committed before himself, or in contempt of his authority, or is brought under his notice as such judge or magistrate in the course of a judicial proceeding.

Saving power of police magistrate.

452 Nothing in section 443 or section 447 shall prevent a magistrate of a police court from himself committing any case to the Supreme Court or a district court.

CHAPTER XXXV.

*Habeas Corpus.**

CHAPTER XXXVI.

Of Bail.

Bail to be taken in case of bailable offence.

454 When any person, other than a person accused of a non-bailable offence, is arrested or detained without warrant, or appears, or is brought before a court, and is prepared at any time, while in custody, or at any stage of the proceedings before such court, to give bail, such person shall be released on bail. Provided that the officer or court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided.

When bail may be taken in case of non-bailable offence.

[§ *13, 22 of 1890*]

455 (1) When any person accused of any non-bailable offence is arrested or detained without warrant, or appears, or is brought before a court, he may be released on bail at the discretion of the court, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of the offence of which he is accused.

Power to direct admission to bail or reduction of bail.

(2) If it appears to the court at any stage of the inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed such offence, but that there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, or at the discretion of the court on the execution by him of a bond without sureties for his appearance as hereinafter provided.

* This chapter has been transferred to "The Courts Ordinance, 1889."

(3) When any person has been committed for trial by a police magistrate for any non-bailable offence other than an offence under sections 114, 191, 295, 296, or 297 of the Ceylon Penal Code, the police magistrate may, in his discretion, release the accused on bail. Any person charged under sections 114, 191, 295, 296, or 297 of the Ceylon Penal Code may be admitted to bail, by order of the Supreme Court, or by the authority of the Attorney-General.

Accused committed for trial for non-bailable offence other than offences under sections 114, 191, 295, 296, or 297.

(4) Any court may, at any subsequent stage of any proceeding under this Code, cause any person who has been released under this section to be arrested, and may commit him to custody.

Court may re-arrest person bailed.

456 The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; and the Supreme Court may in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police magistrate be reduced.

Bond of accused and sureties.

457 Before any person is released on bail, or released on his own bond, a bond for such sum of money as the officer or court, as the case may be, thinks sufficient, shall be executed by such person, and when he is released on bail by one or more sufficient sureties, conditioned that such person shall attend at the time and place mentioned in the bond, and shall continue so to attend until otherwise directed.

Bond of accused and sureties.

If the case so require, the bond shall also bind the person released on bail to appear, when called upon, at the Supreme or a district court to answer the charge.

458 As soon as the bond has been executed, the person for whose appearance it has been executed shall be released; and when he is in prison, the court admitting him to bail shall issue an order of release to the officer in charge of the prison, and such officer, on receipt of the order, shall release him.

Discharge from custody.

Nothing in this section, section 454, or section 455 shall be deemed to require the release of any person liable to be detained for some matter other than that in respect of which the bond was executed.

459 If, through mistake, fraud, or otherwise, insufficient sureties have been accepted, or if they afterwards become insufficient, the court may issue a warrant of arrest directing that the person released on bail be brought before it, and may order him to find sufficient sureties, and, on his failing so to do, may commit him to prison.

Power to order sufficient bail when that first taken is insufficient.

460 All or any sureties for the attendance and appearance of a person released on bail may, at any time, apply to the court to discharge the bond, either wholly, or so far as relates to the applicants.

Discharge of sureties.

On such application being made, the court shall issue a warrant of arrest, directing that the person so released be brought before the court.

On the appearance of such person, pursuant to the warrant or on his voluntary surrender, the court shall direct the bond to be discharged, either wholly or so far as relates to the applicants, and shall call upon such person to find other sufficient sureties, and if he fails to do so, may commit him to custody.

CHAPTER XXXVII.

Of Commissions for the Examination of Witnesses.

When attendance of witness may be dispensed with.

461 Whenever in the course of an inquiry, a trial, or any other proceeding under this Code, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense, or inconvenience which, under the circumstances of the case, would be unreasonable, such court may dispense with such attendance, and may after notice to the parties—

Court may issue commission.

(1) Issue a commission to any police court within the local limits of whose jurisdiction such witness resides to take the evidence of such witness.

Police magistrate may proceed to the witness.

(2) Or if the trial or inquiry is before a police court, and the witness resides within the local jurisdiction of such court, the magistrate of the police court may proceed to the place where the witness is to take such evidence.

Procedure on commission.

462 The police court to which the commission is issued shall, on receiving the commission, summon before it the witness named in the commission ; or if, from ill-health or other cause, his attendance cannot reasonably be procured, the magistrate of the police court shall proceed to the place where the witness is.

How evidence shall be taken down.

463 In the events provided for by the second paragraph of section 461, and in the last preceding section, the evidence of the witness shall be taken down by the police court or magistrate in the same manner, and such court or magistrate may, for the purpose, exercise the same powers as in holding inquiries under this Code.

Parties may examine witness.

464 The parties to any proceeding under this Code in which a commission is issued, or when a police magistrate shall proceed under the second paragraph of section 461, may respectively forward any interrogatories in writing which the court in which the proceeding has taken place may think relevant to the issue ; and the police magistrate taking the examination shall examine the witness upon such interrogatories.

Any such party may appear before such magistrate by pleader, or, in case of a commission, if he is not in custody, in person, and may examine, cross-examine, and re-examine, as the case may be, the said witness.

Return of commission.

465 After any commission, issued under section 461, has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder, to the court out of which it issued, and the commission, the return thereto, and the deposition as well as any deposition taken under the authority of paragraph 2 section 461, shall be open at all reasonable times to inspection of the parties, and may, subject to all just exceptions, be read in evidence in the case by either party, and shall form part of the record.

466 Whenever it shall appear to the satisfaction of any magistrate of any police court, that any person within the jurisdiction of the said court, dangerously ill, and, in the opinion of some medical practitioner, not likely to recover from such illness, is able and willing to give material information relating to a cognizable offence, and it shall not be practicable to take the examination of such person under the foregoing provisions of this Code, such magistrate may take in writing the statement, on oath or affirmation, of such person, together with the cross-examination and re-examination of such person (if any); and such police magistrate shall add thereto, by way of caption, a statement of his reason for taking the same, and of the day and place when and where the same was taken and of the names of the persons (if any) present at the taking thereof, and shall subscribe the same and shall forward the same to the Registrar of the Supreme Court, to be filed of record in the registry of such court.

Special power of police magistrates to take examination of dying witnesses.

467 The police magistrate shall cause notice of the intended taking of such statement, and of the time and place thereof, to be given to any person whom he may have reason to believe might be affected thereby; and any such person, personally or by pleader, may cross-examine the person making such statement, and in that event the magistrate may put any questions to such person on re-examination. The taking and recording any such statement shall, as far as practicable, be in accordance with the provisions of this Code, referring to the taking and recording the evidence of a witness on an inquiry before a police court.

Procedure.

And such statement, when purporting to have been taken on oath or affirmation in the presence of the person affected thereby, who shall have had the opportunity to cross-examine, shall be admissible in evidence against such person without further proof. Provided that the witness who made the statement is dead, or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay and expense which the court considers unreasonable.

Record of examination of dying witnesses when receivable in evidence without further proof. [§ 9, 1 of 1888]

468 In every case in which a commission is issued under section 461, the inquiry, trial, or other proceeding may be adjourned for a specified time, reasonably sufficient for the execution and return of the commission.

Adjournment of inquiry or trial.

CHAPTER XXXVIII.

Special Rules of Evidence.

469 The deposition of a government medical officer or other medical witness, taken and attested by a police magistrate, in the presence of the accused, may be given in evidence in any inquiry, trial, or other proceeding under this Code, although the deponent is not called as a witness.

Deposition of medical witness.

The court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Power to summon medical witness.

Deposition of witness as to the custody or disposal of any matter or thing forwarded to a public officer for analysis and report, or of any instrument or weapon used in or about the commission of an offence.

469 (1) Where the deposition of any witness is tendered in evidence for the purpose of proving the custody or disposal of any matter or thing forwarded in the course of any inquiry to any public officer for examination or analysis and report, or of proving the custody or disposal of any instrument, weapon, matter, or thing used in or about the commission of an offence, such deposition, if it purports to have been taken and attested by a police magistrate in the presence of the accused, may be given in evidence in any inquiry, trial, or proceeding under this Code, although the deponent is not called as a witness. Provided always that the court may, if it thinks fit, summon and examine such deponent as to the subject-matter of his deposition.

Proviso.

[§ 14, 1 of 1888]

Report of government analyst.

470 Any document purporting to be a report under the hand of the government analyst upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may be used as evidence in any inquiry, trial, or other proceeding under this Code. Provided that nothing in this section shall affect the necessity of proving the identity of the subject placed in the analyst's hands to be analysed with the subject of which his analysis is needed for the trial of the case. The court may presume that the signature of any such document is genuine, and that the person signing it held the office he professed to hold at the time he signed it. Provided that in any case in which the police magistrate, or any advocate of the Supreme Court engaged in such case, shall certify that, in his opinion, it would be necessary or expedient that the government medical officer, or other medical witness referred to in the last preceding section, or the government analyst referred to in this section, should be present to give evidence at any particular inquiry, trial, or other proceeding to which the deposition or report may refer, such government medical officer or other medical witness or government analyst, as the case may be, shall be summoned as a witness for the purpose of giving evidence in the same manner as the other witnesses for the prosecution.

Previous conviction or acquittal how proved.

471 In any inquiry, trial, or other proceeding under this Code, a previous conviction or acquittal may be proved, in addition to any other mode provided by any law for the time being in force—

(*a*) By an extract, certified under the hand of the officer having custody of the records of the court in which such conviction or acquittal was had, to be a copy of the sentence or order; or

(*b*) In case of a conviction, either by a certificate, signed by the officer in charge of the prison in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered; or

(*c*) By any other mode provided by any law for the time being in force.

Together with, in each of such cases, evidence as to the identity of the accused person with the person so convicted or acquitted.

472 If it be proved that an accused person has absconded, and that there is no immediate prospect of arresting him, the court competent to try or commit for trial such person for the offence complained of may, in his absence, examine the witnesses (if any) produced on behalf of the prosecution, and record their depositions. Any such deposition may, on the arrest of such person, be given in evidence against him on the inquiry into, or trial for, the offence with which he is charged, if the deponent is dead or incapable of giving evidence, or his attendance cannot be procured without an amount of delay, expense, or inconvenience which, under the circumstances of the case, would be unreasonable.

Record of evidence in absence of accused.

473 The statement or confession of an accused, taken and recorded by a police magistrate as provided for by sections 136 and 368;

The statement or confession of an accused made before the police court, and recorded as provided for by sections 171 and 368;

The statement or statement and examination of an accused, taken and recorded as provided for by sections 352 and 368;

The deposition of a witness, taken and recorded under the provisions of this Code;

may be given in evidence in any subsequent judicial proceeding or in any later stage of the same judicial proceeding.

How confession, statement, and examination of an accused, and depositions of witnesses, may be given in evidence.

Provided that—

(*a*) The proceeding was between the same parties or their representatives in interest.

(*b*) That the questions in issue was substantially the same in the first as in the second proceeding.

And provided further, in case of the deposition of a witness, that the witness—

(*c*) Is dead or cannot be found; or

(*d*) Is incapable of giving evidence; or

(*e*) Is kept out of the way by the adverse party; or

(*f*) His presence cannot be obtained without an amount of delay and expense which the court considers unreasonable; and

(*g*) That the adverse party in the first proceeding had the right and opportunity to cross-examine *the witness, whether such deposition was made in his presence or not.*

Deposition taken in absence of accused receivable in evidence. [§ 14, 29 of 1890]

Explanation.—A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and accused within the meaning of this section.

474 If, on the trial of an accused for an offence to which the examination of a person under sections 466 and 467 relates, such person be dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay and expense which the court considers unreasonable, the court may permit the deposition of such

How depositions, taken under sections 466 and 467, may be given in evidence.

person to be given in evidence either for or against the accused without further proof; provided that it purports to be taken and recorded under the powers of sections 466 and 467.

Provided always that the court may refuse to admit such depositions in evidence, if it shall be shown that the person against whom it is proposed to produce it had no opportunity of cross-examining the person who made it, and was prejudiced thereby.

In prosecutions for having given false evidence, deposition duly recorded shall be admitted without further proof.

474 (1) The deposition of a witness, if it purports to have been taken and recorded in accordance with the provisions of this Code, shall be receivable in evidence, without further proof, in any inquiry or trial in which such witness may be charged with having intentionally given false evidence.

Proviso.

[§ 13, 1 of 1888]

Provided that the court may, if it thinks fit, summon and examine the judge, magistrate, or interpreter by whom the deposition was signed, or the person by whom such deposition was written.

CHAPTER XXXIX.

Provisions as to Bonds.

Deposit instead of recognizance.

475 When any person is required by any court to execute a bond, with or without sureties, such court may, except in the case of a bond for good behaviour, permit him to deposit a sum of money, either in current coin or notes, to such amount as the court may fix, in lieu of executing such bond.

Procedure on forfeiture of bond.

476 Whenever it is proved to the satisfaction of the court by which a bond under this Code has been taken, or when the bond is for appearance before a court, to the satisfaction of such court, that such bond has been forfeited, the court shall record the grounds of such proof, and may call upon any person bound by such bond to pay the penalty thereof, or to show cause why it should not be paid.

If sufficient cause is not shown, and the penalty is not paid, the court may proceed to recover the same by issuing a warrant for the attachment and sale of the movable *or immovable* property belonging to such person.

[§ 15, 22 of 1890]

Such warrant may be executed within the local limits of the jurisdiction of the court which issued it, and it shall authorize the distress and sale of any movable *or immovable* property belonging to such person without such limits, when endorsed by the district judge or police magistrate within the local limits of whose jurisdiction such property is found.

[§ 15, 22 of 1890]

If such penalty be not paid, and cannot be recovered by such attachment and sale, the person so bound shall be liable, by order of the court which issued the warrant, to simple imprisonment for a term which may extend to six months.

The court may at its discretion remit any portion of the penalty mentioned, and enforce payment in part only.

Power to direct levy of amount due on recognizances.

477 The Supreme Court, or a district court, may direct any police magistrate to levy the amount due on a bond to appear and attend at such Supreme Court or district court.

CHAPTER XL.

Of the Disposal of Property.

Order for disposal of property regarding which offence committed.

478 When an inquiry or trial in any criminal court is concluded, the court may make such order as it thinks fit for the disposal of any document or other property produced before it, regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

When the Supreme Court or a district court makes such order, and cannot through its own officers conveniently deliver the property to the person entitled thereto, such court may direct that the order be carried into effect by a police magistrate.

When an order is made under this section in a case in which an appeal lies, such order shall not (except when the property is live stock, or is subject to speedy and natural decay) be carried out until the period allowed for presenting such appeal has passed, or, when such appeal is presented within such period, until such appeal has been disposed of.

Explanation.—In this section the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise.

Order may take form of reference to district or police court.

479 In lieu of passing an order under section 478, the Supreme Court, or a district court, may direct the property to be delivered to a police magistrate, who shall in such cases deal with it as if it had been seized by the police, and the seizure had been reported to him in the manner hereinafter mentioned.

Payment to innocent purchaser of money found on accused.

480 When any person is convicted of any offence which includes or amounts to theft, or receiving stolen property, and it is proved that any other person has bought the stolen property from him without knowing or having reason to believe that the same was stolen, and that any money has on his arrest been taken out of the possession of the convicted person, the court may, on the application of such purchaser and on the restitution of the stolen property to the person entitled to the possession thereof, order that out of such money a sum not exceeding the price paid by such purchaser be delivered to him.

Stay of order under sections 478, 479, 480.

481 The Supreme Court may direct any order under section 478, section 479, or section 480, passed by a district or police court, to be stayed pending consideration by the Supreme Court, and may modify, alter, or annul such order.

Destruction of libellous and other matters.

482 On a conviction under the Ceylon Penal Code, section 285, section 286, section 481, or section 482, the court may order the destruction of all the copies of the thing in respect of which the conviction was had, and which are in the custody of the court or remain in the possession or power of the person convicted.

The court may in like manner on a conviction under the Ceylon Penal Code, section 265, section 266, section 267, or section 268, order the food, drink, drug, or medical preparation in respect of which the conviction was had to be destroyed.

Power to restore possession of immovable property

483 Whenever a person is convicted of an offence attended by criminal force, and it appears to the court that by such force any person has been dispossessed of any immovable property, the court may, if it thinks fit, order such person to be restored to the possession of the same.

No such order shall prejudice any right or interest to or in such immovable property which any person may be able to establish in a civil suit.

Procedure by notice upon seizure of property taken under section 30, or stolen.

484 The seizure by any police officer of property taken under section 30, or alleged or suspected to have been stolen, or found under circumstances which create suspicion of the commission of any offence, shall be forthwith reported to a police magistrate, who shall make such order as he thinks fit respecting the delivery of such property to the person entitled to the possession thereof, or if such person cannot be ascertained, respecting the custody and production of such property.

Procedure where owner of property seized unknown.

If the person so entitled is known, the police magistrate may order the property to be delivered to him, on such conditions (if any) as the magistrate thinks fit. If such person is unknown, the magistrate may detain it, and shall, in such case, issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to come before him and establish his claim within six months from the date of such proclamation.

Procedure where no claimant appears within six months.

485 If no person, within such period, establishes his claim to such property, and if the person in whose possession such property was found is unable to show that it was legally acquired by him, such property shall be at the disposal of the Government, and may be sold under the orders of the police magistrate.

In the case of every order passed under this section, an appeal shall lie to the Supreme Court.

Power to sell perishable property.

486 If the person entitled to the possession of such property is unknown or absent, and the property is subject to speedy and natural decay, or the police magistrate to whom its seizure is reported is of opinion that its sale would be for the benefit of the owner, the magistrate may at any time direct it to be sold, and the provisions of sections 484 and 485 shall, as nearly as may be practicable, apply to the net proceeds of such sale.

CHAPTER XLI

*Transfer of Criminal Cases.**

* This chapter has been transferred to "The Courts Ordinance, 1889."

CHAPTER XLII.

Of Irregular Proceedings.

Irregularities which do not vitiate proceedings.

489 If any police magistrate, not empowered by law to do any of the following things, namely:

(*a*) To issue a search warrant, under section 73;

(*b*) To hold an inquiry, under sections 187 to 195;

(*c*) To take cognizance of an offence, under section 152;

(*d*) To tender a pardon, under section 346 or section 347;

(*e*) To sell property, under section 485 or section 486;

erroneously in good faith does that thing, his proceedings shall not be set aside merely on the ground of his not being so empowered.

Irregularities which vitiate proceedings.

490 If any police magistrate, not being empowered by law in this behalf, does any of the following things, namely:

(*a*) Attaches and sells property, under section 63;

(*b*) Issues a search warrant for a letter in the post office, or a telegram in the telegraph department;

(*c*) Demands security to keep the peace;

(*d*) Demands security for good behaviour;

(*e*) Discharges a person lawfully bound to be of good behaviour;

(*f*) Cancels a bond to keep the peace;

(*g*) Makes an order under section 115 as to a local nuisance;

(*h*) Prohibits, under section 115, the repetition or continuance of a public nuisance;

(*i*) Issues an order under section 129;

(*k*) Tries an offender summarily;

his proceedings shall be void.

Proceedings in wrong place.

491 No finding, sentence, or order of any criminal court shall be set aside merely on the ground that the inquiry, trial, or other proceedings, in the course of which it was arrived at or passed, took place in a wrong sessions, division, district, sub-division, or other local area, unless it appears that such error occasioned a failure of justice.

Non-compliance with provisions of Code.

492 If any court before which evidence is given by a witness, or a confession, or other statement, or statement and examination of an accused person recorded under the provisions of this Code is tendered in evidence, finds that the provisions of this Code have not been fully complied with by the police magistrate recording the evidence, statements, confession, or statement and examination, it shall take evidence, that such person duly gave the evidence or made the statement, confession, or statement and examination

recorded; and, notwithstanding anything in any law to the contrary, such evidence, statement, confession, or statement and examination shall be admitted, if the error has not injured the accused as to his defence on the merits.

Effect of omission to frame charge.

493 No finding, or sentence pronounced or passed, shall be deemed invalid merely on the ground that no charge was framed, unless, in the opinion of the Supreme Court, a failure of justice has been occasioned thereby.

If the Supreme Court think that a failure of justice has been occasioned by an omission to frame a charge, it shall order that a charge shall be framed, and that the trial be re-commenced from the point immediately after the framing of the charge.

Finding or sentence, when reversible by reason of error or omission in charge or other proceedings.

494 Subject to the provisions hereinbefore contained, no finding, sentence, or order passed by a court of competent jurisdiction shall be reversed, or altered on review, appeal, or revision, on account—

Of any error, omission, or irregularity in the complaint, summons, warrant, charge, judgment, or other proceedings before, or during trial, or in any inquiry, or other proceeding under this Code; or

Of the want of any sanction required by section 149; or

Of the omission to revise any list of jurors, or assessors; or

Of any misdirection in any charge to a jury, unless such error, omission, irregularity, want, or misdirection has occasioned a failure of justice.

Distress not illegal nor distrainer a trespasser for defect or want of form in proceedings.

495 No distress made under this Code shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, writ of distress, or other proceedings relating thereto.

CHAPTER XLIII.

Fugitive Offenders' Act, 1881.

Meaning of words "Superior Court" in "Fugitive Offenders' Act, 1881."

496 The Supreme Court is by this Code determined to be the "Superior Court" within the meaning of the expression "Superior Court" in the Act of the Imperial Parliament, known as the "Fugitive Offenders' Act, 1881," as required by the 39th section thereof.

Police magistrate is a magistrate under part I. of said Act.

And every police magistrate of a police court is a magistrate by this Code provided, to exercise jurisdiction, to hear a case, and commit a fugitive to prison, to await his return under part I. of the said "Fugitive Offenders' Act, 1881," as is required by the 30th section of the said Act.

CHAPTER XLIV.*

Miscellaneous.

Courts and persons before whom affidavits may be sworn.

499 Affidavits and affirmations to be used before the Supreme Court, or any officer of such court, may be sworn and affirmed before such court or any commissioner or other person appointed by such court for that purpose, or before any district judge, police magistrate, or justice of the peace, or any judge or any commissioner for taking affidavits in any court of record in British India, or in any of Her Majesty's colonies, or any commissioner to administer oaths in Chancery in England or Ireland, or any magistrate authorized to take affidavits or affirmations in Scotland.

Power to summon material witness or examine person present.

500 Any court may, at any stage of an inquiry, trial, or other proceeding under this Code, summon any person as a witness, or examine any person in attendance though not summoned as a witness, or recall and re-examine any person already examined; and the court shall summon and examine or recall and re-examine any such person, if his evidence appears to it essential to the just decision of the case.

Power of court to order prisoner in jail to be brought up for examination.

501 Any court desirous of examining as a witness in any case pending before the court, any person confined in any prison within the local limits of the jurisdiction of such court, may issue an order to the officer in charge of the said prison, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the court for examination.

The officer so in charge, on receipt of such order, shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from the prison for the purpose aforesaid.

Expenses of complainant or witnesses.

502 Subject to any rules made by the Governor in Executive Council, the Supreme Court may order payment on the part of the Government of the reasonable expenses of any complainant or witness attending for the purposes of any inquiry, trial, or other proceeding before such court under this Code.

Power of court to pay expenses or compensation out of fine.

503 Whenever, under any law in force for the time being, a criminal court imposes a fine or confirms, in appeal, revision, or otherwise, a sentence of fine or a sentence of which fine forms a part, the court may, when passing judgment, order the whole or any part of the fine recovered to be applied—

(*a*) In defraying expenses properly incurred in the prosecution; or

(*b*) In compensation for the injury caused by the offence committed, where substantial compensation is, in the opinion of the court, recoverable by civil suit.

If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal be presented, before the decision of the appeal.

* Sections 497, 498, and 508 have been transferred to "The Courts Ordinance, 1889."

Payments to be taken into account in subsequent suit.

At the time of awarding compensation in any subsequent civil suit relating to the same matter, the court shall take into account any sum paid or recovered as compensation under this section.

Money ordered to be paid recoverable as fines.

504 Any money (other than a fine) payable by virtue of any order made under this Code, shall be recoverable as if it were a fine.

Copies of proceedings.

505 If any person, affected by a judgment or order passed by a criminal court, desires to have a copy of any order or deposition, or other part of the record, he shall, on applying for such copy, be furnished therewith upon such terms as to charges as may be approved by the Governor, with the advice of the Executive Council, unless the court for some special reason thinks fit to furnish it free of cost.

Delivery to military authorities of persons capable of being tried by court-martial.

506 The Governor in Executive Council may make rules consistent with this Code and "The Army Act, 1881," or any similar law for the time being in force, as to the cases in which persons subject to military law shall be tried by a court to which this Code applies; and when any person is brought before a police magistrate and charged with an offence for which he is liable, under "The Army Act, 1881," section 41, to be tried by a court-martial, such magistrate shall have regard to such rules, and shall, in proper cases, deliver him, together with a statement of the offence of which he is accused, to the commanding officer of the regiment, corps, or detachment to which he belongs, or to the commanding officer of the nearest military station, for the purpose of being tried by court-martial.

Apprehension of such persons.

Every police magistrate shall, on receiving a written application for that purpose by the commanding officer of any body of troops stationed or employed at such place, use his utmost endeavours to apprehend and secure any person accused of such offence.

Power to compel restoration of abducted females.

507 Upon complaint made to a police magistrate or district judge, on oath, of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any unlawful purpose, he may, after such inquiry as he may deem fit, make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian, or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.

Summary trial of witness on alternative charges for giving false evidence.

[§ 19, 1 of 1888]

507 (1) If in the course of a trial by jury before the Supreme Court any witness shall on any material point contradict the evidence previously given by him at the inquiry before the magistrate, it shall be lawful for the presiding judge, upon the conclusion of such trial, to have such witness tried by the same jury on an indictment which may then and there be presented by the Attorney-General in the form (4) contained under the heading of "Charges with two or more heads" in schedule III. to the said Code; and such witness, if convicted, shall be liable to the punishment prescribed in section 190 of the Ceylon Penal Code.

Provided, however, that the presiding judge may, if he considers expedient, adjourn the trial of such witness for such period as he may think fit, and may commit such witness to custody or take bail in his own recognizances or with sureties for his appearance; and such adjourned trial shall be before the same or any other jury as the judge may direct. Proviso.

509 Subject to the power conferred by section 508,* the forms set forth in the third schedule, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned. Forms.

510 All powers conferred by this Code on the Governor in Executive Council may be exercised from time to time, as occasion requires. Powers of Governor in Executive Council exercisable from time to time.

511 The provisions of this Code shall apply, so far as may be, to all cases pending when this Code comes into force. Pending suits.

511 (1) All voluntary statements or confessions made by an accused, and all questions put to, and answers given by, an accused in examination by a police magistrate under section 16 of the Ordinance No. 1 of 1888 in the course of a proceeding under chapter XIX., may be recorded and signed in manner provided in sections 232, 233, and 234, without any certificate being attached thereto, anything in sections 15 and 16 of Ordinance No. 1 of 1888 to the contrary notwithstanding. Voluntary statements or examination in proceedings under chapter XIX. to be recorded in manner provided under sections 232, 233, and 234. [§ 17, 22 of 1890]

Ordinance No. 27 of 1892.

1 Notwithstanding anything contained in "The Criminal Procedure Code, 1883," and "The Criminal Procedure Code Amendment Ordinance, 1890," any police magistrate specially empowered in this behalf may try in manner hereinafter provided all or any of the following offences: Power to try in a summary way certain cases.

(*a*) Offences against the Ceylon Penal Code, sections 157, 257, 258, 259, 270, 271, 272, 278, 279, 282, 283, 285, 286, 287, 289, 314, 325, 327, 332, 343, 409, 433, 434, 484, and 488.

(*b*) Theft under sections 367, 369, and 370 of the same Code, where the value of the property stolen does not exceed fifty rupees.

(*c*) Receiving or retaining stolen property under section 394 of the same Code, where the value of such property does not exceed fifty rupees.

(*d*) Assisting in the concealment or disposal of stolen property under section 396 of the same Code, where the value does not exceed fifty rupees.

(*e*) Offences against any other Ordinance and against the by-laws, rules, or regulations made under or in pursuance thereof punishable with a fine not exceeding fifty rupees, or with imprisonment for a term not exceeding three months, or with both.

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* Section 58 of "The Courts Ordinance, 1889," now represents this enactment.

No. 27 OF 1892—*contd.*

(*f*) Abetment of any of the foregoing offences.

(*g*) An attempt to commit any of the foregoing offences when such attempt is an offence.

Procedure.

2 In trials under this Ordinance the procedure prescribed by sections 216, 217, 218, and sub-section 1 of section 219, and sections 220, 221, 222, 223, 224, 228, 229, 230, 236 of the chapter substituted by "The Criminal Procedure Code Amendment Ordinance, 1890," for chapter XIX. of "The Criminal Procedure Code, 1883," so far as they are applicable, shall be followed, subject to the provisions hereinafter contained.

Particulars to be recorded.

3 The police magistrate, in cases tried under this Ordinance, need not record at length the evidence of the witnesses or the statement of the accused, or frame a formal charge, but he shall enter in such form as the Governor in Executive Council may direct the following particulars:

(*a*) The serial number;

(*b*) The name and residence of the complainant (if any);

(*c*) The name and residence of the accused;

(*d*) The offence complained of, and the offence (if any) proved, and in cases coming under sub-section (*b*), sub-section (*c*), or sub-section (*d*) of section 1, the value of the property in respect of which the offence has been committed;

(*e*) The plea of the accused, and his examination (if any);

(*f*) A concise memorandum of the substance of what each witness deposes (which shall be recorded as the examination of each witness proceeds);

(*g*) The finding, and, in the case of a conviction, a brief statement of the reasons therefor;

(*h*) The substance of the statement (if any) made by the accused; and

(*i*) The sentence or other final order.

Record in cases under this Ordinance.

4 The particulars mentioned in the preceding section shall be the only record in cases coming under this Ordinance.

Finding not limited by complaint.

5 A police magistrate may in any proceedings under this Ordinance convict the accused of any offence triable under this Ordinance which from the facts admitted or proved he appears to have committed, whatever may be the nature of the complaint or information. Provided that the particulars of the offence shall have been stated to the accused, and he has had an opportunity of making his defence; but in no case shall it be necessary to frame a formal charge.

Limit of imprisonment.

6 No sentence of imprisonment exceeding one month, or fine exceeding twenty-five rupees, shall be passed in the case of any conviction under this Ordinance.

Governor may empower magistrates to act under this Ordinance.

7 The Governor in Executive Council, after consultation with the Judges of the Supreme Court, may, by notification in the *Government Gazette*, confer on any police magistrate power to try under the provisions of this Ordinance all or any of the offences mentioned in section 1.

SCHEDULE I.

LAWS, ORDINANCES, AND RULES OF COURT REPEALED.

1 Number and Year.	2 Title.	3 Extent of Repeal
Proclamation, 23rd Sept., 1799	—	Section 4 : the proviso
Ordinances.		
1 of 1834 ...	For abolishing certain Oaths and Affirmations taken and made in the Customs and other Revenue Offices in Ceylon, and to substitute Declarations in lieu thereof	The whole Ordinance
3 of 1836 ...	For consolidating and amending the Laws for the Protection of His Majesty's Revenue derived from Salt	Section 16, all the words beginning with "and if any constable," &c., to the end
4 of 1841 ...	To amend the Laws relating to Vagrants	Sub-sections 5, 6, and 7 of section 4
3 of 1842 ...	For the substitution of Solemn Affirmations in lieu of Oaths in certain cases	Sections 3 and 4
11 of 1842 ...	An Ordinance to provide for a Church in Kandy	Section 20
8 of 1844 ...	An Ordinance for the suppression of Lotteries	Section 2
10 of 1844 ...	An Ordinance to amend the Law relative to the Distillation and Sale of Arrack, Rum, and Toddy within these Settlements	Section 60
3 of 1846 ...	For improving the Law of Evidence in this Colony	Section 6, the last paragraph beginning with "and every person" ..... and ending with "perjury"
6 of 1846 ...	An Ordinance relative to Malicious Injuries, and to certain Thefts of Property	The whole Ordinance
12 of 1846 ...	An Ordinance to regulate the Temporal Affairs of the Episcopal Churches in the Island of Ceylon which have been erected, or are now in course of erection, or which may hereafter be erected, in terms of the Ordinance No. 1 of 1845	Section 24
6 of 1850 ...	For the more effectual suppression of the crime of Cattle Stealing, and for authorising District Courts to hear, try, and determine charges relating to the same	The whole Ordinance
9 of 1852 ...	To amend the Law of Evidence	Sections 10, 11, 12, 14, and 16
12 of 1852 ...	For further improving the Administration of Criminal Justice	The whole Ordinance
6 of 1855 ...	To amend the Ordinance No. 11 of 1844	The whole Ordinance

Criminal Procedure Code.

1 Number and Year.	2 Title.	3 Extent of Repeal.
Ordinances.		
2 of 1857 ...	"The Electric Telegraph Ordinance, 1857"	Beginning with section 8 to the end of the Ordinance, inclusive
5 of 1857 ...	"The Coining Prevention Ordinance, 1857"	The whole Ordinance
5 of 1861 ...	An Ordinance relating to Wrecks, Sea Casualties, and Salvage	Sections 29 and 30
10 of 1861 ...	"The Road Ordinance, 1861"	In section 43, the words "and any householder neglecting or refusing to give such information, or wilfully giving false information to the division officer or to the person acting on his behalf, as to any such matter or thing, shall be liable to a fine not exceeding five pounds" First sub-section of section 46 Section 83
16 of 1861 ...	An Ordinance to amend the Law respecting the payment in certain cases of the Expenses of Witnesses and of Medical Practitioners	The whole Ordinance
18 of 1861 ...	An Ordinance for giving effect to certain Rules and Orders for the Police Courts	The whole Ordinance
12 of 1862 ...	"The Cemeteries Ordinance, 1862"	Section 29
13 of 1863 ...	An Ordinance to amend in certain respects the Law of Marriages in this Island, and to provide for the due registration thereof	Sections 24 and 26
5 of 1864 ...	An Ordinance to regulate the Temporal Affairs of Churches not provided for in the Ordinance No. 12 of 1846	Section 21
5 of 1865 ...	"The Merchandise Marks Act, 1865"	The whole Ordinance, except sections 6, 16, 17, 18, and 19
6 of 1865 ...	"The Masters Attendant's Ordinance, 1865"	Sections 37 and 38
10 of 1865 ...	An Ordinance relating to the Ceylon Railways	Sections 19 and 31
16 of 1865 ...	"The Police Ordinance, 1865"	Sections 52, 56, and 60 Section 63, excepting the words "If in the execution of process it shall be found necessary for the officer of police employed to serve such process to go any distance beyond five miles, the person at whose instance the process is issued shall be bound to lodge at the time he applies for the process a sum sufficient to cover the officer's travelling allowances, at such rates as the Governor shall from time to time appoint" Sections 64, 68, and 71 Section 72, except the words "any police officer who shall be guilty of cowardice shall be liable to a fine not exceeding twelve month's pay, or to imprisonment, with or without hard labour, not exceeding twelve months, or to both" Sections 75, 77, 88, and 89 Sections 92, 93, 96, and 99

Criminal Procedure Code.

1 Number and Year	2 Title	3 Extent of Repeal
Ordinances.		
17 of 1865 ...	"The Municipal Councils' Ordinance, 1865"	Section 32
28 of 1865 ...	An Ordinance to give effect to certain Rules relating to Proceedings of the Supreme Court in its Criminal Jurisdiction	The whole Ordinance
4 of 1866 ...	An Ordinance to enlarge the power of the Surveyor-General to demand the Production of Deeds, and make Surveys of Lands, and to facilitate the proof of Surveys	Section 4
4 of 1867 ...	"The Fiscals' Ordinance, 1867"	Section 29, all the words beginning with "any person swearing," &c., to the end Sections 23, 24, 25, 30, 64, and 65, so far as they concern criminal matters only
18 of 1867 ...	"The Births and Deaths Registration Ordinance, 1867"	Sections 28 and 30
21 of 1867 ...	"The Paddy Cultivation Ordinance, 1867"	Section 17
11 of 1868 ...	"The Administration of Justice Ordinance, 1868"	Sections 19, 20, and 21, so far as they concern criminal matters only Section 22, so far only as concerns the transfer of criminal cases and the inspection of records therein by the Supreme Court Sections 23, 25, 26, 27, 28, 30, 31, and 32, so far as they concern criminal matters only Sections 36, 37, 39, 40, 41, 42, 43, 44, 49, and 50 Section 56, so far as concerns the appointment of places for holding police courts Sections 59 and 64, so far as they concern criminal matters only Sections 66, 67, 68, and 69 Sections 74, 75, and 79, so far as they concern criminal matters only Sections 88, 89, and 90 Section 94 to section 114, both inclusive Section 120 to section 138, both inclusive Section 140, except the words "every justice of the peace shall have power, and is hereby required, to administer any oath which any person may be legally entitled to make before a justice of the peace" Section 141 to section 264, both inclusive All the schedules except schedules B and C
17 of 1869 ...	An Ordinance for the General Regulation of Customs in the Island of Ceylon	Section 94
10 of 1871 ...	An Ordinance to amend the Law respecting the Concealment of the Birth of Children	The whole Ordinance
16 of 1871 ...	An Ordinance to give effect to certain Rules of Court in Criminal matters	The whole Ordinance
18 of 1871 ...	An Ordinance to amend the Practice and Proceedings of Police Courts	The whole Ordinance

Criminal Procedure Code.

1 Number and Year.	2 Title.	Extent of Repeal.
Ordinances.		
20 of 1871 ...	An Ordinance to provide for the summoning of Special Jurors to try Criminal Cases before the Supreme Court	The whole Ordinance
23 of 1871 ...	"The Stamp Ordinance, 1871" ...	Section 59
1 of 1873 ...	"The Lunacy Ordinance, 1873"...	Section 11
7 of 1873 ...	"The Licensing Ordinance, 1873"	Sub-section 3 of section 26
17 of 1873 ...	"The Carriage Ordinance, 1873"	Section 17
7 of 1874 ...	An Ordinance to amend "The Administration of Justice Ordinance, 1868"	The whole Ordinance
3 of 1876 ...	"The Land Acquisition Ordinance, 1876"	Section 41
7 of 1876 ...	"The Local Board of Health and Improvement Ordinance, 1876"	Section 80
16 of 1877 ...	"The Prisons Ordinance, 1877"...	Section 81 so far as it is provided for by section 377 of this Code
2 of 1878 ...	"The Postal Ordinance, 1878" ...	Sections 52, 53, 54, 55, 60, 61, 62, 66, 67, and 69
6 of 1878 ...	"The Crown Timber Ordinance, 1878"	Section 12
11 of 1878 ...	"The Grain Tax Ordinance, 1878"	The second and third paragraphs of section 12
14 of 1878 ...	An Ordinance to amend "The Weights and Measures Ordinance, 1876"	Section 7
*Rules and Orders.**		
1st October, 1833	(p. 55) So much of paragraphs 1, 2, 4, and 6 as is now in force	So far as they concern criminal procedure
1st October, 1833	Section VII. (p. 82) ...	The whole, so far as it concerns criminal procedure
1st October, 1833	Forms, section II. (pp. 94-97) ...	The whole
5th April, 1834	No. 3 (p. 108)	The whole
16th June, 1834	No. 5, section 2 (p. 110) ...	The whole
29th June, 1837	No. 8 (p. 115)	The whole, so far as it concerns criminal procedure
28th December, 1838	No. 15 (p. 119)	The whole
21st October, 1844	(pp. 142, 143)	The whole, except such as have already been repealed
6th Decem-	General Rules for the Supreme Court (p 156)	The whole

* *Explanation.*—The paging of the demy quarto edition of the Rules and Orders has been quoted in this schedule.

SCHEDULE II.

TABULAR STATEMENT OF OFFENCES.

EXPLANATORY NOTE.—The entries in the second and sixth columns of this schedule, headed respectively "Offence" and "Punishment under the Ceylon Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding sections of the Ceylon Penal Code, or even as abstracts of those sections, but merely as references to the subject of the section, the number of which is given in the first column.

CHAPTER V.—ABETMENT.

1 Section.	2 Offence.	3 Whether the police may arrest without warrant or not.	4 Whether a warrant or a summons shall ordinarily issue in the first instance.	5 Whether bailable or not.	6 Punishment under the Ceylon Penal Code.	7 By what Court triable.
102	Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	The same punishment as for the offence abetted	The court by which the offence abetted is triable
103	Abetment of any offence, if the person abetted does the act with a different intention from that of the abettor	Same ...	Same ...	Same ...	Same	The court by which the offence abetted is triable
104	Abetment of any offence, when one act is abetted and a different act is done, subject to the proviso	Same ...	Same ...	Same ...	The same punishment as for the offence intended to be abetted	The court by which the offence abetted is triable
106	Abetment of any offence, when an effect is caused by the act abetted different from that intended by the abettor	Same ...	Same ...	Same ...	The same punishment as for the offence committed	The court by which the offence abetted is triable

107	Abetment of any offence, if abettor is present when offence is committed	May arrest without warrant if arrest for the offence abetted may be made without warrant, but not otherwise	According as a warrant or summons may issue for the offence abetted	According as the offence abetted is bailable or not	The same punishment as for the offence committed	The court by which the offence abetted is triable
108	Abetment of an offence punishable with death, if the offence be not committed in consequence of the abetment	Same ...	Same ...	Not bailable	Imprisonment of either description for seven years, and fine	The court by which the offence abetted is triable
	If an act which causes harm be done in consequence of the abetment	Same ...	Same ...	Same ...	Imprisonment of either description for fourteen years, and fine	The court by which the offence abetted is triable
109	Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment	Same ...	Same ...	According as the offence abetted is bailable or not	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	The court by which the offence abetted is triable
	If the abettor, or the person abetted, be a public servant whose duty it is to prevent the offence	Same ...	Same ...	Same ...	Imprisonment extending to half of the longest term, and of any description provided for the offence, or fine, or both	The court by which the offence abetted is triable
110	Abetting the commission of an offence by the public or by more than ten persons	Same ...	Same .	Same ...	Imprisonment of either description for three years, or fine, or both	The court by which the offence abetted is triable
111	Concealing a design to commit an offence punishable with death or imprisonment for twenty years, if the offence be committed	Same ...	Same ...	Not bailable	Imprisonment of either description for seven years, and fine	The court by which the offence abetted is triable

	If the offence be not committed ...	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	The court by which the offence abetted is triable
112	A public servant concealing a design to commit an offence which it is his duty to prevent, if the offence be committed	Same ...	Same ...	According as the offence abetted is bailable or not	Imprisonment extending to half of the longest term, and of any description, provided for the offence, or fine, or both	The court by which the offence abetted is triable
	If the offence be punishable with death	Same ...	Same ...	Not bailable	Imprisonment of either description for ten years	The court by which the offence abetted is triable
	If the offence be not committed ...	Same ...	Same ..	According as the offence abetted is bailable or not	Imprisonment extending to a quarter part of the longest term, and of any description, provided for the offence, or fine, or both	The court by which the offence abetted is triable
113	Concealing a design to commit an offence punishable with imprisonment, if the offence be committed	Same ...	Same ...	Same ...	Same	The court by which the offence abetted is triable
	If the offence be not committed ...	Same ...	Same ...	Same	Imprisonment extending to one-eighth part of the longest term, and of the description provided for the offence, or fine, or both	The court by which the offence abetted is triable

CHAPTER VI.—OFFENCES AGAINST THE STATE.

114	Waging, or attempting to wage, war, or abetting the waging of war against the Queen	Shall not arrest without warrant	Warrant ..	Not bailable	Death, or imprisonment for twenty years and forfeiture of property	
115	Conspiring to commit certain offences against the State	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	

116	Collecting arms, &c., with the intention of waging war against the Queen	Shall not arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for twenty years, and forfeiture of property	
117	Concealing with intent to facilitate a design to wage war	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	
118	Attempt to bring the Queen into contempt	Same ...	Same ...	Same ...	Simple imprisonment for two years, and fine	
119	Assaulting Governor, &c., with intent to compel or restrain the exercise of any lawful power	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	
120	Exciting, or attempting to excite, disaffection	Same ...	Same ...	Same ...	Simple imprisonment for two years and fine, or fine	
121	Waging war against any Power in alliance or at peace with the Queen, or abetting the waging of such war	Same ...	Same ...	Same ...	Imprisonment of either description for ten years and fine, or fine	
122	Committing depredation on the territories of any Power in alliance or at peace with the Queen	Same ...	Same ...	Same ...	Imprisonment of either description for seven years and fine, and forfeiture of certain property	
123	Receiving property taken by war or depredation, mentioned in sections 121 and 122	Same ...	Same ...	Same ...	Same	
124	Public servant voluntarily allowing prisoner of State or war, in his custody, to escape	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
125	Public servant negligently suffering prisoner of State or war, in his custody, to escape	Same ...	Same ...	Bailable ...	Simple imprisonment for three years, and fine	
126	Aiding escape of, rescuing, or harbouring, such prisoner, or offering any resistance to the recapture of such prisoner	Same ...	Same ...	Not bailable	Imprisonment of either description for twenty years, and fine	

CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

128	Abetting mutiny, or attempting to seduce an officer, soldier. or sailor from his allegiance or duty	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for twenty years, and fine	
129	Abetment of mutiny, if mutiny is committed in consequence thereof	Same ...	Same ...	Same ...	Same	
130	Abetment of an assault by an officer, soldier, or sailor on his superior officer when in the execution of his office	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
131	Abetment of such assault, if the assault is committed	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
132	Abetment of the desertion of an officer, soldier, or sailor	Same ...	Same ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court
133	Harbouring such an officer, soldier, or sailor who has deserted	Same ...	Same ...	Same ...	Same	District court
134	Deserter concealed on board merchant vessel through negligence of master or person in charge thereof	Shall not arrest without warrant	Summons ...	Same ...	Fine of five hundred rupees ...	District court Police court
135	Abetment of act of insubordination by an officer, soldier, or sailor, if the offence be committed in consequence	May arrest without warrant	Warrant ...	Same ...	Imprisonment of either description for six months, or fine, or both	Police court
137	Wearing the dress or carrying any token used by a soldier, with intent that it may be believed that he is such a soldier	Same ...	Summons ...	Same ...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court

CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

140	Being member of an unlawful assembly	May arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for six months, or fine, or both	Police court
141	Joining an unlawful assembly, armed with any deadly weapon	Same ...	Warrant ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
142	Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	Same ...	Same ...	Same ...	Same	District court
144	Rioting	Same ...	Same ...	Same ...	Same	District court
145	Rioting, armed with a deadly weapon	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	
146	If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence	According as arrest may be made, without warrant, for the offence or not	According as a warrant or summons may issue for the offence	According as the offence is bailable or not	The same as for the offence ...	The court by which the offence is triable
147	Hiring, engaging, or employing persons to take part in an unlawful assembly	May arrest without warrant	According to the offence committed by the person hired, engaged, or employed	Same ...	The same as for a member of such assembly, and for any offence committed by any member of such assembly	District court
148	Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse	Same ...	Summons ...	Bailable ...	Imprisonment of either description for six months, or fine, or both	Police court
149	Assaulting or obstructing public servant when suppressing riot, &c.	Same ...	Warrant ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court Police court

150	Wantonly giving provocation with intent to cause riot, if rioting be committed	Same ...	Same ...	Same ...	Imprisonment of either description for one year, or fine, or both	District court Police court
	If not committed	Same ...	Summons ...	Same ...	Imprisonment of either description for six months, or fine, or both	Police court
151	Owner or occupier of land not giving information of riot, &c.	Shall not arrest without warrant	Same ...	Same ...	Fine of one thousand rupees ...	District court Police court
152	Person for whose benefit or on whose behalf a riot takes place not using all lawful means to prevent it	Same ...	Same ...	Same ...	Fine	District court Police court
153	Agent of owner or occupier for whose benefit a riot is committed not using all lawful means to prevent it	Same ...	Same ...	Same ...	Same	District court Police court
154	Harbouring persons hired for an unlawful assembly	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for six months, or fine, or both	Police court
155	Being hired to take part in an unlawful assembly or riot	Same ...	Same ...	Same ...	Same	Police court
	Or to go armed	Same ...	Warrant ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
157	Committing affray	Shall not arrest without warrant	Summons ...	Same ...	Imprisonment of either description for one month, or fine of one hundred rupees, or both	Police court

CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

158	Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act	Shall not arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	

159	Taking a gratification in order, by corrupt or illegal means, to influence a public servant	Shall not arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	
160	Taking a gratification for the exercise of personal influence with a public servant	Same ...	Same ...	Same ...	Simple imprisonment for one year, or fine, or both	District court
161	Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	
162	Public servant disobeying a direction of the law with intent to cause injury to any person	Same ...	Same ...	Same ...	Simple imprisonment for one year, or fine, or both	District court Police court
163	Public servant framing an incorrect document with intent to cause injury	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court
164	Fraudulent or malicious infraction of duty by public servant in telegraph department	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
165	Misconduct by public servant in telegraph or postal department	Same ...	Same ...	Same ...	Imprisonment of either description for three months, or fine which may extend to fifty rupees, or both	Police court
166	Fraud by public servant in telegraph department	May arrest without warrant	Warrant ...	Same ...	Imprisonment of either description, which may extend to two years, or fine, or both	District court Police court
167	Injury to messages, &c., committed by public servants in postal or telegraph department	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, or fine, or both	District court
168	Personating a public servant ...	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
169	Wearing garb or carrying token used by public servant with fraudulent intent	Same ...	Summons ...	Same ...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court

CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

170	Absconding to avoid service of summons or order proceeding from a public servant	Shall not arrest without warrant	Summons ...	Bailable ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
	If summons or notice require attendance in person, &c., in a court of justice	Same ...	Same ...	Same ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
171	Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation	Same ...	Same ...	Same ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
	If summons, &c., require attendance in person, &c., in a court of justice	Same ...	Same ...	Same ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
172	Not obeying a legal order to attend at a certain place, in person or by agent, or departing therefrom without authority	Same ...	Same ...	Same ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
	If the order require personal attendance, &c., in a court of justice	Same ...	Same ...	Same ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
173	Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document	Same ...	Same ...	Same ...	Simple imprisonment for one month, or fine of fifty rupees, or both	The court in which the offence is committed, subject to the provisions of chapter XXXIV.; or, if not committed in court, a police court
	If the document is required to be produced in, or delivered to, a court of justice	Same ...	Same ...	Same ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court

174	Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information	Shall not arrest without warrant	Summons ...	Bailable ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
	If the notice or information required respects the commission of an offence, &c.	Same ...	Same ...	Sam ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
175	Knowingly furnishing false information to a public servant	Same ...	Same ..	Same ...	Same	Police court
	If the information required respects the commission of an offence, &c.	Same ...	Same ...	Same ..	Imprisonment of either description for two years, or fine, or both	District court
176	Refusing oath when duly required to take oath by a public servant	Same ...	Same ...	Same ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	The court in which the offence is committed, subject to the provisions of chapter XXXIV.; or, if not committed in a court, a police court
177	Being legally bound to state truth, and refusing to answer questions	Same ...	Same ...	Same ...	Same	The court in which the offence is committed, subject to the provisions of chapter XXXIV.; or, if not committed in a court, a police court
178	Refusing to sign a statement made to a public servant when legally required to do so	Same ...	Same ...	Same ...	Simple imprisonment for three months, or fine of one hundred rupees, or both	Police court
179	Knowingly stating to a public servant on oath, as true, that which is false	Same ...	Warrant ...	Same ...	Imprisonment of either description for three years, and fine	District court

180	Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person	Same ...	Summons ...	Same ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
181	Resistance to the taking of property by the lawful authority of a public servant	Same ...	Same ...	Same ...	Same	Police court
182	Obstructing sale of property offered for sale by authority of a public servant	Same ...	Same ...	Same ...	Imprisonment of either description for one month, or fine of one hundred rupees, or both	Police court
183	Obstructing public servant in discharge of his public functions	Same ...	Same ...	Same ...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court
184	Omission to assist public servant when bound by law to give such assistance	Same ...	Same ...	Same ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
	Wilfully neglecting to aid a public servant who demands aid in the execution of process, the prevention of offences, &c.	Same ...	Same ...	Same ...	Simple imprisonment for six months, or fine of one hundred rupees, or both	Police court
185	Disobedience to an order lawfully promulgated by a public servant, if such disobedience causes obstruction, annoyance, or injury to persons lawfully employed	Same ...	Same ...	Same ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
	If such disobedience causes danger to human life, health, or safety, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
186	Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
187	Threatening any person to induce him to refrain from making a legal application for protection from injury	Same ...	Same ...	Same ...	Imprisonment of either description for one year, or fine, or both	District court Police court

CHAPTER XI.—FALSE EVIDENCE, AND OFFENCES AGAINST PUBLIC JUSTICE.

190	Giving or fabricating false evidence in a judicial proceeding	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for seven years, and fine	District court
	Giving or fabricating false evidence in any other case	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
191	Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence	Same ...	Same ...	Not bailable	Rigorous imprisonment for ten years, and fine	
	If innocent person be thereby convicted and executed	Same ...	Same ...	Same ...	Death	
192	Giving or fabricating false evidence with intent to procure conviction of an offence punishable with imprisonment for seven years or upwards	Same ...	Same ...	Same ...	The same as for the offence	
193	Using, in a judicial proceeding, evidence known to be false or fabricated	Same ...	Same ...	According as the offence of giving such evidence is bailable or not	The same as for giving or fabricating false evidence	District court
194	Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence	Same ...	Same ...	Bailable ..	The same as for giving false evidence	District court
195	Using, as a true certificate, one known to be false in a material point	Same ...	Same ...	Same ...	Same	District court
196	False statement made in any declaration which is by law receivable as evidence	Same ...	Same ...	Same ...	Same	District court
197	Using, as true, any such declaration known to be false	Same ...	Same	Same ...	Same	District court

198	Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender · if a capital offence	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	
	If punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
	If punishable with less than ten years imprisonment	Same ...	Same ...	Same ...	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	Court by which the offence is triable
199	Intentional omission to give information of an offence by a person legally bound to inform	Same ...	Summons ...	Same ...	Imprisonment of either description for six months, or fine, or both	Police court
200	Giving false information respecting an offence committed	Same ...	Warrant ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
201	Secreting or destroying any document to prevent its production as evidence	Same ...	Same ...	Same ...	Same	District court
202	False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security	Same ...	Same ..	Same ...	Imprisonment of either description for three years, or fine, or both	District court
203	Fraudulent removal or concealment, &c., of property, to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
204	Claiming property without right, or practising deception touching any right to it, to prevent its being taken as a forfeiture, or in satisfaction of a fine under sentence, or in execution of a decree	Same ...	Same ...	Same ...	Same	District court

205	Fraudulently suffering a decree to pass for a sum not due, or suffering decree to be executed after it has been satisfied	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court
206	False claim in a court of justice ...	Same ...	Same ..	Same ...	Imprisonment of either description for two years, and fine	District court
207	Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
208	False charge of offence made with intent to injure	Same ...	Same ...	Same ...	Same	District court
	If offence charged be capital, or punishable with imprisonment for a term exceeding seven years	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
209	Harbouring an offender, if the offence be capital	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for five years, and fine	District court
	If punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
	If punishable with imprisonment for one year and not for ten years	Same ...	Same ...	Same ...	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, where offence committed by person harboured is triable by a police court
210	Taking gift, &c., to screen an offender from punishment, if the offence be capital	Shall not arrest without warrant	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
	If punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court

	If with imprisonment for less than ten years	Same ...	Same ...	Same ...	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, if the offender is triable by a police court
211	Offering gift or restoration of property in consideration of screening offender, if the offence be capital	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
	If punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
	If with imprisonment for less than ten years	Same ...	Same ...	Same ...	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, if the offender is triable by a police court
212	Taking gift to help to recover movable property of which a person has been deprived by an offence, without causing apprehension of offender	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
213	Harbouring an offender who has escaped from custody, or whose apprehension has been ordered: if the offence be capital	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for seven years, and fine	
	If punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for three years, with or without fine	District court
	If with imprisonment for one year and not for ten years	Same ...	Same ...	Same ...	Imprisonment for a quarter of the longest term, and of the description provided for the offence, or fine, or both	District court Police court, if the offender is triable by police court
214	Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture	Shall not arrest without warrant	Summons ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court

215	Public servant framing an incorrect record or writing, with intent to save person from punishment or property from forfeiture	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	District court
216	Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender : if the offence be capital	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, with or without fine	
	If punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for three years, with or without fine	District court
	If with imprisonment for less than ten years	Same ...	Same ...	Same ...	Imprisonment of either description for two years, with or without fine	District court
217	Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a court of justice: if under sentence of death	Same ...	Same ...	Not bailable	Imprisonment of either description for fourteen years, with or without fine	
	If under sentence of imprisonment for ten years or upwards	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, with or without fine	District court
	If under sentence of imprisonment for less than ten years ; or lawfully committed to custody	Same ...	Same ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	District court
218	Escape from confinement negligently suffered by a public servant	Same ...	Summons ...	Same ...	Simple imprisonment for two years, or fine, or both	District court Police court

219	Resistance or obstruction by a person to his lawful apprehension	May arrest without warrant	Warrant ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court, if person resisting or escaping, &c., charged with or convicted of offence cognizable by police court
220	Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody	Same ...	Same ...	Same ...	Same	District court Police court
	If charged with an offence punishable with imprisonment for ten years	Same ...	Same ...	Not bailable	Imprisonment of either description for three years, and fine	District court
	If charged with a capital offence ...	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
	If the person is sentenced to imprisonment for ten years or upwards	Same ...	Same ...	Same ...	Same	District court
	If under sentence of death ...	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	
221	Escape, or attempt to escape, from custody for failing to furnish security for good behaviour	Same ...	Same ...	Bailable ...	Imprisonment of either description for one year, or fine, or both	District cour Police court
222	Violation of condition of remission of punishment	Shall not arrest without warrant	Summons ...	Not bailable	Punishment of original sentence, or, if part of the punishment has been undergone, the residue	The court by which the original offence was triable
223	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding	Same ...	Same ...	Bailable ...	Simple imprisonment for six months, or fine of one thousand rupees, or both	The court in which the offence is committed, subject to provisions of chapter XXXIV.
224	Personation of a juror or assessor ...	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court

CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

226	Counterfeiting, or performing any part of the process of counterfeiting, coin	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for seven years, and fine	District court
227	Counterfeiting, or performing any part of the process of counterfeiting, the Queen's coin	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
228	Making, buying, or selling instrument for the purpose of counterfeiting coin	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
229	Making, buying, or selling instrument for the purpose of counterfeiting the Queen's coin	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
230	Possession of instrument or material for the purpose of using the same for counterfeiting coin	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
	If Queen's coin	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
231	Abetting in Ceylon the counterfeiting out of Ceylon of coin	Same ...	Same ...	Same ...	The punishment provided for abetting the counterfeiting of such coin within Ceylon	District court
232	Import or export of counterfeit coin, knowing the same to be counterfeit	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
233	Import or export of counterfeits of the Queen's coin, knowing the same to be counterfeit	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
234	Having any counterfeit coin, known to be such when it came into possession, and delivering, &c., the same to any person	Same ...	Same ...	Same ...	Imprisonment of either description for five years, and fine	District court

235	The same with respect to the Queen's coin	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
236	Knowingly delivering to another any counterfeit coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine of ten times the value of the coin counterfeited, or both	District court
237	Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
238	Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
239	Fraudulently diminishing the weight or altering the composition of any coin	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
240	Fraudulently diminishing the weight or altering the composition of the Queen's coin	Same	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
241	Altering appearance of any coin with intent that it shall pass as a coin of a different description	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
242	Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
243	Delivery to another of coin possessed with the knowledge that it is altered	Same ...	Same ...	Same ...	Imprisonment of either description for five years, and fine	District court
244	Delivery of Queen's coin possessed with the knowledge that it is altered	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
245	Possession of altered coin by a person who knew it to be altered when he became possessed thereof	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court

246	Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for five years, and fine	District court
247	Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be altered	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine of ten times the value of the coin	District court Police court
248	Counterfeiting a Government stamp	Same ...	Same ...	Bailable ...	Imprisonment of either description for fifteen years, and fine	District court
249	Having possession of an instrument or material for the purpose of counterfeiting a Government stamp	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
250	Making, buying, or selling instrument for the purpose of counterfeiting a Government stamp	Same ...	Same ...	Same ...	Same	District court
251	Sale of counterfeit Government stamp	Same ...	Same ...	Same ...	Same	District court
252	Having possession of a counterfeit Government stamp	Same ...	Same ...	Same ...	Same	District court
253	Using as genuine a Government stamp known to be counterfeit	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, or fine, or both	District court
254	Effacing any writing from a substance bearing a Government stamp, or removing from a document a stamp used for it, with intent to cause loss to Government	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court
255	Using a Government stamp known to have been before used	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
256	Erasure of mark denoting that stamp has been used	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court

CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

257	Use of instrument for weighing knowing the same to be false	Shall not arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for one year, or fine, or both	District court Police court
258	Using false weight or measure ...	Same ...	Same ...	Same ...	Same	District court Police court
259	Being in possession of false weights or measures for use	Same ...	Same ...	Same ...	Same	District court Police court
260	Making or selling false weights or measures for fraudulent use	Same ...	Same ...	Same ...	Same	District court

CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

262	Negligently doing any act known to be likely to spread infection of any disease dangerous to life	May arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for six months, or fine, or both	District court Police court
263	Maliciously doing any act known to be likely to spread infection of any disease dangerous to life	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court
264	Knowingly disobeying any quarantine rule	Same ...	Same ...	Same ...	Imprisonment of either description for six months, or fine, or both	District court Police court
265	Adulterating food or drink intended for sale so as to make the same noxious	Shall not arrest without warrant	Same ...	Same ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
266	Selling any food or drink as food and drink, knowing the same to be noxious	Same ...	Same ...	Same ...	Same	Police court

267	Adulterating any drug or medical preparation, intended for sale, so as to lessen its efficacy or to change its operation, or to make it noxious	Shall not arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
268	Offering for sale, or issuing from a dispensary, any drug or medical preparation known to have been adulterated	Same ...	Same ...	Same ...	Same	Police court
269	Knowingly selling, or issuing from a dispensary, any drug or medical preparation as a different drug or medical preparation	Same ...	Same ...	Same ...	Same	Police court
270	Defiling the water of a public spring or reservoir	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for three months, or fine of fifty rupees, or both	Police court
271	Making atmosphere noxious to health	Shall not arrest without warrant	Same ...	Same ...	Fine of one hundred rupees ...	Police court
272	Driving or riding on a public way so rashly or negligently as to endanger human life, &c.	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
273	Navigating any vessel so rashly or negligently as to endanger human life, &c.	Same ...	Same ...	Same ...	Same	Police court
274	Exhibition of a false light, mark, or buoy	Same ...	Warrant ...	Same ...	Imprisonment of either description for seven years, or fine, or both	District court
275	Conveying for hire any person by water, in a vessel in such a state, or so loaded, as to endanger his life	Same ...	Summons ...	Same ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
276	Causing danger, obstruction, or injury in any public way, or line of navigation	Same ...	Same ...	Same ...	Fine of one hundred rupees ...	Police court

277	Dealing with any poisonous substance so as to endanger human life, &c.	Shall not arrest without warrant	Same ...	Same ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
278	Dealing with fire, or any combustible matter, so as to endanger human life, &c.	May arrest without warrant	Same ...	Same ...	Same	Police court
279	So dealing with any explosive substance	Same ...	Same ...	Same ...	Same	Police court
280	So dealing with any machinery ...	Shall not arrest without warrant	Same ...	Same ...	Same	Police court
281	A person omitting to guard against probable danger to human life by the fall of any building over which he has a right entitling him to pull it down or repair it	Same ...	Same ...	Same ...	Same	Police court
282	A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt, from such animal	May arrest without warrant	Same ...	Same ...	Same	Police court
283	Committing a public nuisance ...	Shall not arrest without warrant	Same ...	Same ...	Fine of fifty rupees, or imprisonment of either description for three months, or both	Police court
284	Continuance of nuisance after injunction to discontinue	May arrest without warrant	Same ...	Same ...	Simple imprisonment for six months, or fine, or both	District court Police court
285	Sale, &c., of obscene books, &c. ...	Same ...	Warrant ...	Same ...	Imprisonment of either description for three months, or fine, or both	Police court
286	Having in possession obscene book, &c., for sale or exhibition	Same ...	Same ...	Same ...	Same	Police court

287	Obscene songs	May arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for three months, or fine, or both	Police court
288	Keeping a lottery office ...	Shall not arrest without warrant	Summons ...	Same ...	Imprisonment of either description for six months, or fine, or both	District court Police court
	Publishing proposals relating to lotteries	Same ...	Same ...	Same ...	Fine of one hundred rupees ...	Police court
289	Wilful omission of statutory authority	Same ...	Same ...	Same ...	Fine	District court Police court

CHAPTER XV.—OFFENCES RELATING TO RELIGION.

290	Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons	May arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court Police court
291	Causing a disturbance to an assembly engaged in religious worship	Same ...	Same ...	Same ...	Same	District court Police court
292	Trespassing in place of worship or sepulchre, disturbing funeral, with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse	Same ...	Same ...	Same ...	Same	District court Police court

CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

Of Offences affecting Life.

296	Murder	May arrest without warrant	Warrant ...	Not bailable	Death	
297	Culpable homicide, not amounting to murder, if act by which the death is caused is done with intention of causing death, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	

	If act is done with knowledge that it is likely to cause death, but without any intention to cause death, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, or fine, or both	
298	Causing death by rash or negligent act	Same ...	Same ...	Bailable ...	Imprisonment of either description for five years, or fine. or both	
299	Abetment of suicide ...	Same ...	Same ...	Not bailable	Death	
300	Attempt to murder ...	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	
	If such act cause hurt to any person...	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
301	Attempt to commit culpable homicide	Same ...	Same ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	District court
	If such act cause hurt to any person...	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, or fine, or both	District court
302	Attempt to commit suicide ...	Same ...	Same ...	Same ...	Simple imprisonment for one year, or fine, or both	District court Police court
	Of the causing of Miscarriage; of Injuries to Unborn Children; of the Exposure of Infants; and of the Concealment of Births.					
303	Causing miscarriage ...	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	District court
	If the woman be quick with child ...	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
304	Causing miscarriage without woman's consent	Same ...	Same ...	Not bailable	Imprisonment of either description for twenty years, and fine	
305	Death caused by an act done with intent to cause miscarriage	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
306	Act done with intent to prevent a child being born alive, or to cause it to die after its birth	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, or fine, or both	District court

307	Causing death of a quick unborn child by an act amounting to culpable homicide	Shall not arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for ten years, and fine	District court
308	Exposure of a child under twelve years of age by parent or person having care of it, with intention of wholly abandoning it	May arrest without warrant	Same ...	Bailable ...	Imprisonment of either description for seven years, or fine, or both	District court
309	Concealment of birth by secret disposal of dead body	Same ...	Same ...	Same ...	Imprisonment of either description for two years. or fine, or both	District court
			Of Hurt.			
314	Voluntarily causing hurt ...	*May**arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court Police court
315	Voluntarily causing hurt by dangerous weapons or means	May arrest without warrant	*Warrant*† ...	Same ...	Imprisonment of either description for three years, or fine, or both, *whipping in addition*‡	District court
316	Voluntarily causing grievous hurt ...	Same ...	*Warrant*† ...	Same ...	Imprisonment of either description for seven years, and fine. If person hurt is a woman or child, whipping in addition	District court
317	Voluntarily causing grievous hurt by dangerous weapons or means	Same ...	*Warrant*† ...	Not bailable	Imprisonment of either description for ten years, and fine, *whipping in addition*‡	District court
318	Voluntarily causing hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	Same ...	Warrant ...	Same ...	Imprisonment of either description for ten years, and fine	
319	Administering stupefying drug with intent to cause hurt, &c.	Same ...	Same ...	Same ...	Same	District court

Criminal Procedure Code.

320	Voluntarily causing grievous hurt to extort property or a valuable security, or to constrain to do anything which is illegal, or which may facilitate the commission of an offence	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine, or whipping	
321	Voluntarily causing hurt to extort confession or information, or to compel restoration of property, &c.	Same ...	Same ...	Bailable ...	Imprisonment of either description for seven years, and fine	District court
322	Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property, &c.	Same ...	Same ...	Not bailable	Imprisonment of either description for ten years, and fine	
323	Voluntarily causing hurt to deter public servant from his duty	Same ...	Same ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	District court
324	Voluntarily causing grievous hurt to deter public servant from his duty	Same ...	Same ...	Not bailable	Imprisonment of either description for ten years, and fine	
325	Voluntarily causing hurt, on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	Shall not arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for one month, or fine of fifty rupees, or both	Police court
326	Causing grievous hurt, on grave and sudden provocation, not intending to hurt any other than the person who gave the provocation	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for four years, or fine of two thousand rupees, or both	District court
327	Doing any act which endangers human life or the personal safety of others	Same ...	Same ...	Same ...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court

* Section 10 of No. 1 of 1888. † Section 16 of No. 22 of 1890. ‡ No. 16 of 1889.

328	Causing hurt by an act which endangers human life, &c.	May arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for six months, or fine of one hundred rupees, or both	Police court
329	Causing grievous hurt by an act which endangers human life, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine of one thousand rupees, or both	District court
	Of Wrongful Restraint and Wrongful Confinement.					
332	Wrongfully restraining any person ...	May arrest without warrant	Summons ...	Bailable ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
333	Wrongfully confining any person ...	Same ...	Same ...	Same ...	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court Police court
334	Wrongfully confining for three or more days	Same ...	Same ...	Same ...	Imprisonment of either description for two years, and fine	District court
335	Wrongfully confining for ten or more days	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
336	Keeping any person in wrongful confinement knowing that a writ has been issued for his liberation	Shall not arrest without warrant	Same ...	Same ...	Imprisonment of either description for two years, in addition to imprisonment under any other section	District court
337	Wrongful confinement in secret ...	May arrest without warrant	Same ...	Same ...	Same	District court
338	Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
339	Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c.	Same ...	Same ...	Same ...	Same	District court

			Of Criminal Force and Assault.			
343	Assault or use of criminal force otherwise than on grave provocation	Shall not arrest without warrant	Same	Same ...	Imprisonment of either description for three months, or fine of fifty rupees, or both	Police court
344	Assault or use of criminal force to deter a public servant from discharge of his duty	May arrest without warrant	Warrant ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
345	Assault or use of criminal force to a woman, with intent to outrage her modesty	Same ...	Same ...	Same ...	Same, and whipping ...	District court
346	Assault or criminal force with intent to dishonour a person, otherwise than on grave and sudden provocation	Shall not arrest without warrant	Summons ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
347	Assault or criminal force in attempt to commit theft of property worn or carried by a person	May arrest without warrant	Warrant ...	Not bailable	Same	District court Police court
348	Assault or use of criminal force in attempt wrongfully to confine a person	Same ...	Same ...	Bailable ...	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court Police court
349	Assault or use of criminal force on grave and sudden provocation	Shall not arrest without warrant	Summons ...	Same ...	Simple imprisonment for one month, or fine of fifty rupees, or both	Police court
			Of Kidnapping, Abduction, Slavery, and Forced Labour.			
354	Kidnapping	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for seven years, and fine	District court
355	Kidnapping or abducting in order to murder	Same ...	Same ...	Same ...	Rigorous imprisonment for twenty years, and fine	

356	Kidnapping or abducting with intent secretly and wrongfully to confine a person	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for seven years, and fine	District court
357	Kidnapping or abducting a woman to compel her marriage, or to cause her defilement, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	
358	Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	Same ...	Same ...	Same ...	Same	
359	Concealing or keeping in confinement a kidnapped person	Same ...	Same ...	Same ...	Punishment for kidnapping or abduction	District court
360	Kidnapping or abducting a child with intent to take property from the person of such child	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
361	Buying or disposing of any person as a slave	Shall not arrest without warrant	Same ...	Bailable ...	Same	District court
362	Habitual dealing in slaves ...	May arrest without warrant	Same ...	Not bailable	Imprisonment of either description for fifteen years, and fine	
			Of Rape.			
364	Rape	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for twenty years, and fine, *whipping in addition* *	
			Of Unnatural Offences.			
365	Unnatural offences	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for ten years, and fine, *whipping in addition* *	

* No. 16 of 1889.

CHAPTER XVII.—OFFENCES AGAINST PROPERTY

Of Theft.

367	Theft	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for three years, or fine, or both	District court Police court, when value of property stolen does not exceed one hundred rupees
368	Theft of cattle or prædial produce ...	Same ..	Same ...	Same ...	Whipping in addition to punishment for theft	District court Police court, if value of property does not exceed fifty rupees
369	Theft in a dwelling house, &c. ...	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court Police court, if value of property stolen does not exceed one hundred rupees
370	Theft by clerk or servant of property in possession of master or employer	Same ...	Same ...	Same ...	Same	District court Police court, if value of property stolen does not exceed one hundred rupees
371	Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt or of restraint, in order to the committing of such theft, or to retiring after committing it, or to retaining property taken by it	Same ...	Same ...	Same ...	Rigorous imprisonment for ten years, and fine, *whipping in addition**	

* No. 16 of 1889.

Of Extortion.

373	Extortion	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for three years, or fine, or both	District court
374	Putting or attempting to put in fear of injury, in order to commit extortion.	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
375	Extortion by putting a person in fear of death or grievous hurt	Same ...	Same ...	Not bailable	Imprisonment of either description for ten years, and fine	District court
376	Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
377	Extortion by threat of accusation of an offence punishable with death or imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine, *whipping in addition**	
	If the offence threatened be an unnatural offence	Same ...	Same ...	Same ...	Rigorous imprisonment for twenty years, and fine, *whipping in addition**	
378	Putting a person in fear of accusation of offence punishable with death, or with imprisonment for ten years, in order to commit extortion	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine, *whipping in addition**	
	If the offence be an unnatural offence	Same ...	Same ...	Same ...	Rigorous imprisonment for twenty years, and fine, *whipping in addition**	

Of Robbery.

380	Robbery	May arrest without warrant	Warrant ...	Not bailable	Rigorous imprisonment for ten years, and fine, *whipping in addition**	District court

	If committed on the highway between sunset and sunrise	Same ...	Same ...	Same ...	Rigorous imprisonment for fourteen years, and fine, *whipping in addition**	*District court* †
381	Attempt to commit robbery ...	Same ...	Same ...	Same ...	Rigorous imprisonment for seven years, and fine, *whipping in addition**	District court Police court
382	Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person jointly concerned in such robbery	Same ...	Same ...	Same ...	Rigorous imprisonment for twenty years, and fine	
383	Robbery, with attempt to cause death or grievous hurt	Same ...	Same ...	Same ...	Rigorous imprisonment *for twenty years*,‡ *whipping also**	
384	Attempt to commit robbery when armed with deadly weapon	Same ...	Same ...	Same ...	*Same*‡	
385	Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts	Same ...	Same ...	Same ...	Rigorous imprisonment for seven years, and fine	District court
	Of Criminal Misappropriation of Property.					
386	Dishonest misappropriation of movable property, or converting it to one's own use	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court Police court
387	Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court Police court
	If by clerk or person employed by deceased	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court

* No. 16 of 1889. † Section 16 of No. 22 of 1890. ‡ Sections 3 and 4 of No. 3 of 1892.

Of Criminal Breach of Trust.

389	Criminal breach of trust ...	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for three years, or fine, or both	District court Police court
390	Criminal breach of trust by a carrier, wharfinger, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
391	Criminal breach of trust by a clerk or servant	Same ...	Same ...	Same ...	Same	District court Police court
392	Criminal breach of trust by public servant, or by banker, merchant, or agent, &c.	Shall not arrest without warrant	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court

Of the Receiving of Stolen Property.

394	Dishonestly receiving stolen property, knowing it to be stolen	May arrest without warrant	Warrant ...	Not bailable	Imprisonment of either description for three years, or fine, or both	District court Police court, when the value of the stolen property does not exceed one hundred rupees
395	Habitually dealing in stolen property	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
396	Assisting in concealment or disposal of stolen property, knowing it to be stolen	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court Police court, if value of stolen property does not exceed one hundred rupees
397	Receiving stolen cattle or prædial products	Same ...	Same ...	Same ...	Whipping, in addition to other punishment	District court Police court, if value of stolen property does not exceed fifty rupees

			Of Cheating.			
400	Cheating	Shall nor arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for one year, or fine, or both	District court Police court
401	Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court
402	Cheating by personation ...	Same ...	Same ...	Same ...	Same	District court
403	Cheating, and thereby dishonestly inducing delivery of property, or the making, alteration, or destruction of a valuable security	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
			Of Fraudulent Deeds and Dispositions of Property.			
404	Fraudulent removal or concealment of property, &c., to prevent distribution among creditors	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court
405	Fraudulently preventing from being made available for his creditors a debt or demand due to the offender	Same ...	Same ...	Same ...	Same	District court
406	Fraudulent execution of deed of transfer containing a false statement of consideration	Same ...	Same ...	Same ...	Same	District court
407	Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled	Same ...	Same ...	Same ...	Same	District court
			Of Mischief.			
409	Mischief	Shall not arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for three months, or fine, or both	Police court

410	Mischief, and thereby causing damage to the amount of fifty rupees or upwards	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court Police court
411	Mischief by killing, poisoning, maiming, or rendering useless any animal of the value of ten rupees or upwards	May arrest without warrant	Same ...	Same ...	Same	District court Police court
412	Mischief by killing, poisoning, maiming, or rendering useless any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of fifty rupees or upwards	Same ...	Same ...	Same ...	Imprisonment of either description for five years, or fine, or both	District court
413	Mischief by causing a diminution of supply of water for agricultural purposes, &c.	Same ...	Same ...	Same ...	Same	District court Police court, where damage done does not exceed fifty rupees
414	Mischief by injury to public road, bridge, navigable river, or navigable channel, and rendering it impassable or less safe for travelling or conveying property	Same ...	Same ...	Same ...	Same	District court
415	Mischief by causing inundation or obstruction to public drainage, attended with damage	Same ...	Same ...	Same ...	Same	District court
416	Mischief by destroying, or moving, or rendering less useful a lighthouse or seamark, or by exhibiting false lights	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, or fine, or both	District court
417	Mischief by destroying or moving, &c., a landmark fixed by public authority	Shall not arrest without warrant	Same ...	Same ...	Imprisonment of either description for one year, or fine, or both	District court Police court

418	Mischief by fire or explosive substance, with intent to cause damage to the amount of one hundred rupees or upwards	May arrest without warrant	Same ...	Same ...	Imprisonment of either description for seven years, and fine	District court
419	Mischief by fire or explosive substance, with intent to destroy a house, &c.	Same ...	Same ...	Not bailable	Imprisonment of either description for fifteen years, and fine	*District court**
420	Mischief with intent to destroy or make unsafe a decked vessel, or a vessel of twenty tons burthen	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
421	The mischief described in the last section, when committed by fire or any explosive substance	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
422	Running vessel ashore, with intent to commit theft, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
423	Impeding the saving of a vessel ...	Same ...	Same ...	Same ...	Imprisonment of either description for five years, or fine, or both	District court
424	Removing or secreting wreck ...	Same ...	Same ...	Same ...	Imprisonment of either description for one year, or fine, or both	District court Police court
425	Taking wreck into foreign port ...	Same ...	Same ...	Same ...	Imprisonment of either description for five years, or fine, or both	District court
426	Mischief committed after preparation made for causing death or hurt, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for five years, and fine	District court
			Of Criminal Trespass.			
433	Criminal trespass	May arrest without warrant	Summons ...	Bailable ...	Imprisonment of either description for three months, or fine of one hundred rupees, or both	Police court

* Section 11 of No. 1 of 1888.

434	House-trespass	May arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for one year, or fine of one thousand rupees, or both	District court Police court
435	House-trespass, in order to the commission of an offence punishable with death	Same ...	Same ...	Not bailable	Rigorous imprisonment for twenty years, and fine	
436	House-trespass, in order to the commission of an offence punishable with imprisonment for ten years	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
437	House-trespass, in order to the commission of an offence punishable with imprisonment for less than ten years	Same ...	Same ...	Bailable ...	Imprisonment of either description for two years, and fine	District court
	If the offence is theft ...	Same ...	Same ...	Not bailable	Imprisonment of either description for seven years, and fine	District court
438	House-trespass, having made preparation for causing hurt, assault, &c.	Same ...	Same ...	Same ...	Same	District court
439	Lurking house-trespass or house-breaking	Same ...	Same ...	Same ...	Imprisonment of either description for two years, and fine*	District court Police court
440	Lurking house-trespass or house-breaking, in order to the commission of an offence punishable with imprisonment	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine*	District court
	If the offence is theft ...	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	District court
441	Lurking house-trespass or house-breaking, after preparation made for causing hurt, assault, &c.	Same ...	Same ...	Same ...	Same	District court

442	Lurking house-trespass or house-breaking by night	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
443	Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment	Same ...	Same ...	Same ...	Imprisonment of either description for five years, and fine	District court
	If the offence is theft ...	Same ...	Same ...	Same ...	Imprisonment of either description for fourteen years, and fine	District court
444	Lurking house-trespass or house-breaking by night, after preparation made for causing hurt, &c.	Same ...	Same ...	Same ...	Same	District court
445	Grievous hurt caused whilst committing lurking house-trespass or house-breaking	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
446	Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c.	Same ...	Same ...	Same ...	Same	
447	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	Same ...	Same ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court Police court
448	Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same	Sa ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court Police court
449	Possession of house-breaking implements or offensive weapons	Same ...	Same ...	Same ...	Imprisonment of either description for two years, and fine	District court Police court
450	Being found in building for unlawful purpose	Same ...	Same ...	Same ..	Imprisonment of either description for three months, or fine of fifty rupees, or both	Police court
451	Loitering about, by reputed thief ...	Same ...	Same ...	Same ...	Same	Police court

* See No. 16 of 1889, section 2, sub-sections (*l*) and (*n*).

CHAPTER XVIII.—OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY-MARKS.

454	Forgery	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for five years, or fine, or both	*District court**
455	Forgery of a record of a court of justice or of a register of births, &c., kept by a public servant	Same ...	Same ...	Not bailable	Imprisonment of either description for seven years, and fine	
456	Forgery of a valuable security, will, or authority to make or transfer any valuable security, or to receive any money, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for twenty years, and fine	
457	Forgery, for the purpose of cheating...	Sam ...	Same ...	Same ...	Imprisonment of either description for seven years, and fine	*District court*†
458	Forgery, for the purpose of harming the reputation of any person, or knowing that it is likely to be used for that purpose	Same ...	Same ...	Bailable ...	Imprisonment of either description for three years, and fine	*District court**
459	Using as genuine a forged document which is known to be forged	Same ...	Same ...	Same ...	Punishment for forgery ...	*District court**
460	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery, punishable under section 456 of the Ceylon Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit	Same ...	Same ...	Same ...	Imprisonment of either description for ten years, and fine	

461	Making or counterfeiting a seal, plate, &c., with intent to commit a forgery, punishable otherwise than under section 456 of the Ceylon Penal Code, or possessing with like intent any seal, plate, &c., knowing the same to be counterfeit	Same	...	Same	...	Same	...	Imprisonment of either description for seven years, and fine	
462	Having possession of a document knowing it to be forged, with intent to use it as genuine, if the document is one of the description mentioned in section 455 of the Ceylon Penal Code	Same	...	Same	...	Same	...	Same	
	If the document is one of the description mentioned in section 456 of the Ceylon Penal Code	Same	...	Same	...	Same	...	Imprisonment of either description for ten years, and fine	
463	Counterfeiting a device or mark used for authenticating documents described in section 456 of the Ceylon Penal Code, or possessing counterfeit marked material	Same	...	Same	...	Same	...	Imprisonment of either description for seven years, and fine	
464	Counterfeiting a device or mark used for authenticating documents other than those described in section 456 of the Ceylon Penal Code, or possessing counterfeit marked material	Same	...	Same	...	Same	...	Imprisonment of either description for seven years, and fine	
465	Sending false message by telegraph ..	Same	...	Same	...	Same	...	Imprisonment for one year, or fine, or both	District court Police court
466	Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c.	Same	...	Same	...	Same	...	Imprisonment of either description for seven years, and fine	

* Section 11 of No. 1 of 1888

† Section 16 of No. 22 of 1890

Of Property-marks.

471	Using a false property-mark, with intent to deceive or injure any person	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for one year, or fine, or both	District court Police court
472	Counterfeiting a property-mark used by another, with intent to cause damage or injury	Same ...	Same ...	Same ...	Imprisonment of either description for two years, or fine, or both	District court Police court
473	Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property	Same ...	Same ...	Same ...	Imprisonment of either description for three years, and fine	District court
474	Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property-mark	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court
475	Knowingly selling goods marked with a counterfeit property-mark	Same ...	Same ...	Same ...	Imprisonment of either description for one year, or fine, or both	District court Police court
476	Fraudulently making a false mark upon any package or receptacle containing goods, with intent to cause it to be believed that it contains goods which it does not contain, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for three years, or fine, or both	District court
477	Making use of any such false mark ...	Same ...	Same ...	Same ...	Same	District court
478	Removing, destroying, or defacing any property-mark, with intent to cause injury	Same ...	Same ...	Same ...	Imprisonment of either description for one year, or fine, or both	District court Police court

CHAPTER XIX.—DEFAMATION.

480	Defamation	Shall not arrest without warrant	Warrant ...	Bailable ...	Simple imprisonment for two years, or fine, or both	
481	Printing or engraving matter, knowing it to be defamatory	Same ...	Same ...	Same ...	Simple imprisonment for two years, or fine, or both	
482	Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter	Same ...	Same ...	Same ...	Same	

CHAPTER XX.—CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

484	Insult intended to provoke a breach of the peace	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for two years, or fine, or both	District court Police court
485	False statement, rumour, &c., circulated with intent to cause mutiny or offence against the public peace	Same ...	Same ...	Not bailable	Same	District court
486	Criminal intimidation ...	Same ...	Same ...	Bailable ...	Same	District court Police court
	If threat be to cause death or grievous hurt, &c.	Same ...	Same ...	Same ...	Imprisonment of either description for seven years, or fine, or both	District court
487	Criminal intimidation by anonymous communication, or having taken precaution to conceal whence the threat comes	Same ..	Same ...	Same ...	Imprisonment of either description for two years, in addition to the punishment under above section	District court
488	Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person	Same ...	Same ..	Same ...	Simple imprisonment for one month, or fine of one hundred rupees, or both	Police court

	CHAPTER XXI.—OF UNLAWFUL OATHS.					
489	Administering or taking, or abetting the taking, of an oath to commit an offence punishable with imprisonment for twenty years	Shall not arrest without warrant	Warrant ...	Bailable ...	Imprisonment of either description for twenty years, or fine, or both	
	If offence is punishable with imprisonment for less than twenty years	Same ...	Same ...	Same ...	Same punishment as for offence to which oath relates	District court Police court
	CHAPTER XXII.—ATTEMPTS TO COMMIT OFFENCES.					
490	Attempting to commit offence punishable with imprisonment, and in such attempt doing any act towards the commission of the offence	According as the offence is one in respect of which the police may arrest without warrant or not	According as the offence is one in respect of which a summons or warrant shall ordinarily issue	According as the offence contemplated by the offender is bailable or not	Imprisonment not exceeding half of the longest term, and of any description, provided for the offence, or fine, or both	The court by which the offence attempted is triable
	OFFENCES AGAINST OTHER LAWS.					
	If punishable with death or imprisonment for seven years or upwards	May arrest without warrant	Warrant ...	Not bailable	—	According to the provisions of section 12 of this Code
	If punishable with imprisonment for three years and upwards, but less than seven	Same ...	Same ...	Same ...	—	
	If punishable with imprisonment for less than three years	Shall not arrest without warrant	Summons ...	Bailable ...	—	
	If punishable with fine only ...	Same ...	Same ...	Same ...	—	

SCHEDULE III.

FORMS.

I.—Summons to an Accused Person.

(See Section 45.)

To ———, of ——— .

Whereas your attendance is necessary to answer to a charge of (*state shortly the offence charged*), you are hereby required to appear in person (*or* by pleader, *as the case may be*) before the (———) ———, of ———, on the ——— day of ———. Herein fail not.

Dated this ——— day of ———, 18—.

Signature ———.

II.—Warrant of Arrest.

(See Section 51.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

Whereas ———, of ———, stands charged with the offence of (*state the offence*), you are hereby directed to arrest the said ———, and to produce him before me. Herein fail not.

Dated this ——— day of ———, 18—.

Signature ———.

(See Section 52.)

This warrant may be endorsed as follows:

If the said ——— shall give bail, himself in the sum of ——— with one surety in the sum of ——— (*or* two sureties, each in the sum of ———), to attend before me on the ——— day of ———, and to continue so to attend until otherwise directed by me, he may be released.

Dated this ——— day of ———, 18—.

Signature ———.

III.—Bond and Bail-Bond after Arrest under a Warrant.

(See Section 61.)

I, (*name*), of ———, being brought before the police magistrate of ——— (*or as the case may be*), under a warrant issued to compel my appearance to answer to the charge of ———, do hereby bind myself to attend in the court of ———, on the ——— day of ——— next, to answer to the said charge, and to continue so to attend until otherwise directed by the court; and, in case of my making default herein, I bind myself to forfeit to Her Majesty the Queen the sum of rupees ———.

Dated this ——— day of , 18—.

Signature ———.

I do hereby declare myself surety for the above-named ———, of ———, that he shall attend before ———, in the court of ———, on the ——— day of ——— next, to answer to the charge on which he has been arrested, and shall continue so to attend

until otherwise directed by the court; and, in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the Queen the sum of rupees ————.

Dated this ———— day of ————, 18 —.

Signature ————.

IV.—Proclamation requiring the Appearance of a Person Accused.

(See Section 62.)

Whereas complaint has been made before me that (*name, description, and address*) has committed (*or* is suspected to have committed) the offence of ————, punishable under section ———— of the Ceylon Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself to avoid the service of the said warrant):

Proclamation is hereby made that the said ————, of ————, is required to appear at (*place*) before this court (*or* before me), to answer the said complaint, within (*not less than thirty*) days from this date.

Dated this ———— day of ————, 18 —.

Signature ————.

V.—Proclamation requiring the Attendance of a Witness.

(See Section 62.)

Whereas complaint has been made before me that (*name, description, and address*) has committed (*or* is suspected to have committed) the offence of (*mention the offence concisely*), and a warrant has been issued to compel the attendance of (*name, description, and address of the witness*) before this court to be examined touching the matter of the said complaint; and whereas it has been returned to the said warrant that the said (*name of witness*) cannot be served, and it has been shown to my satisfaction that he has absconded (*or* is concealing himself) to avoid the service of the said warrant:

Proclamation is hereby made that the said (*name*) is required to appear at (*place*) before the court of ————, on the ———— day of ———— next, at ———— o'clock, to be examined touching ————, the offence complained of.

Dated this ———— day of ————, 18 —.

Signature ————.

Order of Attachment to compel the Appearance of a Person Accused.

(See Section 63.)

To (*name and designation of the person or persons who is or are to execute the warrant*).

Whereas complaint has been made before me that (*name, description, and address*) has committed (*or* is suspected to have committed) the offence of ————, punishable under section ———— of the Ceylon Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and

whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself) to avoid the service of the said warrant, and thereupon a Proclamation was duly issued and published requiring the said ——— to appear to answer the said charge within ——— days; and whereas the said ——— is possessed of the following property other than land paying revenue to Government in the village (*or* town) of ———, in the district of ———, viz., ———, and an order has been made for the attachment thereof:

You are hereby required to attach the said property by seizure, and to hold the same under attachment pending the further order of this court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this ——— day of ———, 18 —.

Signature ———.

VI.—Order of Attachment to compel the Attendance of a Witness.

(See Section 63.)

To the Fiscal of the ——— Province.

Whereas a warrant has been duly issued to compel the attendance of (*name, description, and address*) to testify concerning a complaint pending before this court, and it has been returned to the said warrant that it cannot be served; and whereas it has been shown to my satisfaction that he has absconded (*or* is concealing himself) to avoid the service of the said warrant; and thereupon a Proclamation was duly issued and published requiring the said ——— to appear and give evidence at the time and place mentioned therein, and he has failed to appear:

This is to authorize and require you to attach by seizure the movable property belonging to the said ———, to the value of rupees ———, which you may find within the jurisdiction of this court, and to hold the said property under attachment pending the further order of this court, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this ——— day of ———, 18 —.

Signature ———.

Order authorizing an Attachment by the Government Agent.

(See Section 63.)

To the Government Agent of the ——— Province.

Whereas complaint has been made before me that (*name, description, and address*) has committed (*or* is suspected to have committed) the offence of ———, punishable under section ——— of the Ceylon Penal Code, and it has been returned to a warrant of arrest thereupon issued that the said (*name*) cannot be found; and whereas it has been shown to my satisfaction that the said (*name*) has absconded (*or* is concealing himself) to avoid the service of the said warrant, and thereupon a Proclamation was duly issued and published requiring the said ——— to appear to answer the said charge within ——— days, but he has not appeared; and whereas the said ——— is possessed of certain land paying revenue to Government in the village (*or* town) of ———, in the district of ———, in your Province:

You are hereby authorized and requested to cause the said land to be attached, and to be held under attachment pending the further order of this court, and to certify without delay what you may have done in pursuance of this order.

Dated this ——— day of ———, 18 —.

Signature ———.

VII.—Warrant in the first instance to bring up a Witness.

(See Section 65.)

To (*name and designation of the police officer or other person or persons who is or are to execute the warrant*).

Whereas complaint has been made before me that ———, of ———, has (*or* is suspected to have) committed the offence of (*mention the offence concisely*), and it appears likely that (*name and description of witness*) can give evidence concerning the said complaint; and whereas I have good and sufficient reason to believe that he will not attend as a witness on the hearing of the said complaint unless compelled to do so:

This is to authorize and require you to arrest the said (*name*), and on the ——— day of ——— to bring him before this court, to be examined touching the offence complained of.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

VIII.—Warrant to search after Information of a Particular Offence.

(See Section 71.)

To (*name and designation of the police officer or other person or persons who is or are to execute the warrant*).

Whereas information has been laid (*or* complaint has been made) before me of the commission (*or* suspected commission) of the offence of (*mention the offence concisely*), and it has been made to appear to me that the production of (*specify the thing clearly*) is essential to the inquiry now being made (*or* about to be made) into the said offence (*or* suspected offence):

This is to authorize and require you to search for the said (*the thing specified*), in the (*describe the house or place or part thereof to which the search is to be confined*), and, if found, to produce the same forthwith before this court; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

IX.—Warrant to search suspected Place of Deposit.

(See Section 73.)

To ———.

Whereas information has been laid before me, and, on due inquiry thereupon had, I have been led to believe that the (*describe the house or other place*) is used as a place for the deposit (*or* sale) of stolen property (*or, if for either of the other purposes expressed in the section, state the purpose in the words of the section*):

PROVINCIAL SECRETARIATE LIBRARY

This is to authorize and require you to enter the said house (*or other place*), with such assistance as shall be required, and to use, if necessary, reasonable force for that purpose, and to search every part of the said house (*or other place, or, if the search is to be confined to a part, specify the part clearly*), and to seize and take possession of any property (*or* documents, *or* stamps, *or* seals, *or* coins, *as the case may be*)—[*Add* (*when the case requires it*), and also of any instruments and materials which you may reasonably believe to be kept for the manufacture of forged documents, *or* counterfeit stamps, *or* false seals, *or* counterfeit coin (*as the case may be*)] and forthwith to bring before this court such of the said things as may be taken possession of ; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

X.—Bond to keep the Peace.

(See Section 87.)

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to keep the peace for the term of ———, I hereby bind myself not to commit a breach of the peace, or do any act that may probably occasion a breach of the peace, during the said term ; and, in case of my making default therein, I hereby bind myself to forfeit to Her Majesty the Queen the sum of rupees ——— .

Dated this ——— day of ———, 18 —.

Signature ———.

XI.—Bond for Good Behaviour.

(See Sections 90 and 91.)

Whereas I, (*name*), inhabitant of (*place*), have been called upon to enter into a bond to be of good behaviour to Her Majesty the Queen and to all her subjects for the term of (*state the period*), I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term ; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees ———.

Dated this ——— day of ———, 18 —.

Signature ———.

(*Where a bond with sureties is to be executed, add*) We do hereby declare ourselves sureties for the above-named ———, that he will be of good behaviour to Her Majesty the Queen and to all her subjects during the said term ; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to Her Majesty the sum of rupees ———.

Dated this ——— day of ———, 18 —.

Signature ———.

XII.—Summons on Information of a Probable Breach of the Peace.

(See Section 94.)

To ———, of ———.

Whereas it has been made to appear to me by credible information that (*state the substance of the information*), and that you are likely to commit a breach of the peace (*or* by which act a breach of the peace will probably be occasioned), you are hereby required to attend in

person (*or* by a duly authorized agent) at the police court of ———, on the ——— day of ———, 18 —, at ten o'clock in the forenoon, to show cause why you should not be required to enter into a bond for rupees ——— [*when sureties are required, add*, and also to give security by the bond of one (*or* two, *as the case may be*) surety (*or* sureties) in the sum of rupees ——— (*each, if more than one*)] that you will keep the peace for the term of ———.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XIII.—Warrant of Commitment on Failure to find Security to keep the Peace.

(See Section 103.)

To the Fiscal of the ——— Province.

Whereas (*name and address*) appeared before me in person (*or* by his pleader) on the ——— day of ———, in obedience to a summons calling upon him to show cause why he should not enter into a bond for rupees ———, with one surety (*or* a bond with two sureties, each in rupees ———), that he the said (*name*) would keep the peace for the period of ——— months; and whereas an order was then made requiring the said (*name*) to enter into and find such security (*state the security ordered when it differs from that mentioned in the summons*), and he has failed to comply with the said order:

This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received, and the said (*name*) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XIV.—Warrant of Commitment on Failure to find Security for Good Behaviour.

(See Section 103.)

To the Fiscal of the ——— Province.

Whereas it has been made to appear to me that (*name and description*) has been and is lurking within the district of ———, having no ostensible means of subsistence (*or*, and that he is unable to give any satisfactory account of himself):

or

Whereas evidence of the general character of (*name and description*) has been adduced before me and recorded, from which it appears that he is an habitual robber (*or* house-breaker, &c., *as the case may be*):

And whereas an order has been recorded stating the same, and requiring the said (*name*) to furnish security for his good behaviour for the term of (*state the period*) by entering into a bond with one surety (*or* two or more sureties, *as the case may be*), himself for rupees ——— and the said surety (*or* each of the said sureties) for rupees ———, and the said (*name*) has failed to comply with the said order, and for such default has been adjudged ("rigorous" *or* "simple," *as the case may be*) imprisonment for (*state the term*), unless the said security be sooner furnished;

This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), unless he shall in the meantime comply with the said order by himself and his surety (*or* sureties) entering into the said bond, in which case the same shall be received and the said (*name*) released; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XV.—Warrant to Discharge a Person imprisoned on failure to give Security.

(See Sections 103 and 106.)

To the Fiscal of the ——— Province (*or other officer in whose custody the person is*).

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this court (*or* of the Supreme Court, *or* district court of ———, *as the case may be*), dated the ——— day of ———, and has since duly given security under section 103 of "The Criminal Procedure Code, 1883":

or

and there have appeared to me sufficient grounds for the opinion that he can be released without hazard to the community:

or

the Supreme Court (*or* district court of ———, *as the case may be*) has ordered that the said ——— be released:

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other cause.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XVI.—Order for the Removal of Nuisances.

(See Section 115.)

To (*name, description, and address*).

Whereas it has been made to appear to me that you have caused an obstruction (*or* nuisance) to persons using the public roadway (*or other public place*) which, &c. (*describe the road or public place*), by, &c. (*state what it is that causes the obstruction or nuisance*), and that such obstruction (*or* nuisance) still exists:

or

Whereas it has been made to appear to me that you are carrying on as owner or manager the trade or occupation of (*state the particular trade or occupation and the place where it is carried on*), and that the same is injurious to the public health (*or* comfort) by reason (*state briefly in what manner the injurious effects are caused*), and should be suppressed or removed to a different place:

or

Whereas it has been made to appear to me that you are the owner of (*or* are in possession of, *or* have the control over) a certain tank (*or* well, *or* excavation) adjacent to the public way (*describe the thoroughfare*),

and that the safety of the public is endangered by reason of the said tank (*or* well, *or* excavation) being without a fence (*or* insecurely fenced) :

or

Whereas, &c., &c. (*as the case may be*) :

I do hereby direct and require you within (*state the time allowed*) to (*state what is required to be done to abate the nuisance*), or to appear at ———, in the ——— court of ———, on the ——— day of ——— next, and to show cause why this order should not be enforced :

or

I do hereby direct and require you within (*state the time allowed*) to cease carrying on the said trade or occupation at the said place, and not again to carry on the same, or to remove the said trade from the place where it is now carried on, or to appear, &c. :

or

I do hereby direct and require you within (*state the time allowed*) to put up a sufficient fence (*state the kind of fence and the part to be fenced*), or to appear, &c. :

or

I do hereby direct and require you, &c., &c. (*as the case may be*).

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XVII.—Magistrate's Order constituting a Jury.

(See Section 120.)

Whereas on the ——— day of ———, 18 —, an order was issued to (*name*) requiring him (*state the effect of the order*), and whereas the said (*name*) has applied to me by a petition bearing date the ——— day of ——— for an order appointing a jury to try whether the said recited order is reasonable and proper ; I do hereby appoint (*the names, &c., of the five or more jurors*) to the jury to try and decide the said questions, and do require the said jury to report their decision within ——— days from the date of this order at my office at ———.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XVIII.—Magistrate's Notice and Peremptory Order after the Finding by a Jury.

(See Section 122.)

To (*name, description, and address*).

I hereby give you notice that the jury duly appointed on the petition presented by you on the ——— day of ——— have found that the order issued on the ——— day of ———, requiring you (*state substantially the requisition in the order*), is reasonable and proper. Such order has been made absolute, and I hereby direct and require you to obey the said order within (*state the time allowed*), on peril of the penalty provided by the Ceylon Penal Code for disobedience thereto.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XIX.—Injunction to provide against imminent danger pending Inquiry by Jury.

(See Section 125.)

To (*name, description, and address*).

Whereas the inquiry by a jury appointed to try whether my order, issued on the ——— day of ———, 18 —, is reasonable and proper is still pending, and it has been made to appear to me that the nuisance mentioned in the said order is attended with so imminent serious danger to the public as to render necessary immediate measures to prevent such danger, I do hereby, under the provisions of section 125 of "The Criminal Procedure Code, 1883," direct and enjoin you forthwith to (*state plainly what is required to be done as a temporary safeguard*), pending the result of the local inquiry by the jury.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XX.—Magistrate's Order prohibiting the Repetition, &c., of a Nuisance.

(See Section 128.)

To (*name, description, and address*).

Whereas it has been made to appear to me that, &c. (*state the proper recital guided by* Form No. XVI. or Form No. XXI., *as the case may be*) :

I do hereby strictly order and enjoin you not to repeat the said nuisance by again placing or causing or permitting to be placed, &c. (*as the case may be*).

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXI.—Magistrate's Order to prevent Obstruction, Riot, &c.

(See Section 129.)

To (*name, description, and address*).

Whereas it has been made to appear to me that you are in possession (*or* have the management) of (*describe clearly the property*), and that, in digging a drain on the said land, you are about to throw or place a portion of the earth and stones dug up upon the adjoining public road, so as to occasion risk of obstruction to persons using the road :

or

Whereas it has been made to appear to me that you and a number of other persons (*mention the class of persons*) are about to meet and proceed in a religious procession along the public street, &c. (*as the case may be*), and that such procession is likely to lead to a riot or an affray :

or

Whereas, &c., &c. (*as the case may be*) :

I do hereby order you not to place or permit to be placed any of the earth or stones dug from your land in any part of the said road :

or

I do hereby prohibit the procession passing along the said street, and strictly warn and enjoin you not to take any part in such procession (*or as the case cited may require*).

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXII.—Charges.

(See Sections 196, 197, 198.)

1.—Charges with one Head.

(*a*) I, (*name and office of magistrate, &c.*), hereby charge you (*name of accused person*), as follows:

On Penal Code. section 114.

(*b*) That you, on or about the ——— day of ———, at ———, waged war against Her Majesty the Queen, and thereby committed an offence punishable under section 114 of the Ceylon Penal Code.

(*Signature of the Magistrate.*)

To be substituted for (*b*)

On section 119

(2) That you, on or about the ——— day of ———, at ———, with the intention of inducing the Honourable *A. B.*, Member of the Executive Council of Ceylon, to refrain from exercising a lawful power as such Member, assaulted such Member, and thereby committed an offence punishable under section 119 of the Ceylon Penal Code.

On section 158.

(3) That you, being a public servant in the ——— Department, directly accepted from (*state the name*), for another party (*state the name*), a gratification (*state the nature*), other than legal remuneration, as a motive for forbearing to do an official act, and thereby committed an offence punishable under section 158 of the Ceylon Penal Code.

On section 162.

(4) That you, being a public servant in the ——— Department, on or about the ——— day of ———, at ———, did (*or* omitted to do, *as the case may be*) ———, such conduct being contrary to the provisions of Ordinance ———, section ———, and known by you to be prejudicial to ———, and thereby committed an offence punishable under section 162 of the Ceylon Penal Code.

On section 190.

(5) That you, on or about the ——— day of ———, at ———, in the course of the trial of ———, before ———, stated in evidence that "———," which statement you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 190 of the Ceylon Penal Code.

On section 297.

(6) That you, on or about the ——— day of ———, at ———, committed culpable homicide not amounting to murder, by causing the death of ———, and thereby committed an offence punishable under section 297 of the Ceylon Penal Code.

On section 299.

(7) That you, on or about the ——— day of ———, at ———, abetted the commission of suicide by *A. B.*, and thereby committed an offence punishable under section 299 of the Ceylon Penal Code.

On section 316.

(8) That you, on or about the ——— day of ———, at ———, voluntarily caused grievous hurt to ———, and thereby committed an offence punishable under section 316 of the Ceylon Penal Code.

On section 380.

(9) That you, on or about the ——— day of ———, at ———, robbed (*state the name and article stolen*), and thereby committed an offence punishable under section 380 of the Ceylon Penal Code.

2.—Charges with two or more Heads.

(*a*) I, (*name and office of magistrate, &c.*), hereby charge you (*name of accused person*), as follows:

On section 236.

(*b*) *First.*—That you, on or about the ——— day of ———, at ———, knowing a coin to be counterfeit, delivered the same to another person, by name *A. B.*, as genuine, and thereby committed an offence punishable under section 236 of the Ceylon Penal Code.

Secondly.—That you, on or about the ——— day of ———, at ———, knowing a coin to be counterfeit, attempted to induce another person, by name *A. B.*, to receive it as genuine, and thereby committed an offence punishable under section 236 of the Ceylon Penal Code.

(*Signature of the Magistrate.*)

To be substituted for (*b*)

(2) *First.*—That you, on or about the ——— day of ———, at ———, committed murder by causing the death of ———, and thereby committed an offence punishable under section 296 of the Ceylon Penal Code. On sections 296 and 297.

Secondly.—That you, on or about the ——— day of ———, at ———, by causing the death of ———, committed culpable homicide not amounting to murder, and thereby committed an offence punishable under section 297 of the Ceylon Penal Code.

(3) *First.*—That you, on or about the ——— day of ———, at ———, committed theft (*state article stolen*), and thereby committed an offence punishable under section 367 of the Ceylon Penal Code. On sections 367 and 371.

Secondly.—That you, on or about the ——— day of ———, at ———, committed theft (*state article stolen*), having made preparation for causing death to a person in order to the committing of such theft, and thereby committed an offence punishable under section 371 of the Ceylon Penal Code.

Thirdly.—That you, on or about the ——— day of ———, at ———, committed theft (*state article stolen*), having made preparation for causing restraint to a person in order to the effecting of your escape after the committing of such theft, and thereby committed an offence punishable under section 371 of the Ceylon Penal Code.

Fourthly.—That you, on or about the ——— day of ———, at ———, committed theft (*state article stolen*), having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and thereby committed an offence punishable under section 371 of the Ceylon Penal Code.

(4) That you, on or about the ——— day of ———, at ———, in the course of the inquiry into ———, before ———, stated in evidence that "———," and that you, on or about the ——— day of ———, at ———, in the course of the trial of ———, before ———, stated in evidence that "———," one of which statements you either knew or believed to be false, or did not believe to be true, and thereby committed an offence punishable under section 190 of the Ceylon Penal Code. Alternative charges on section 190.

3.—Charge for Theft after a previous Conviction.

I, (*name and office of magistrate, &c.*), hereby charge you (*name of accused person*), as follows:

That you, on or about the ——— day of ———, at ———, committed theft (*state article stolen*), and thereby committed an offence punishable under section 367 of the Ceylon Penal Code (*as the case may be*).

And you the said (*name of accused*) stand further charged that you, before the committing of the said offence, that is to say, on the ——— day of ———, had been convicted by the (*state court by which conviction was had*) at ———, of an offence punishable under chapter XVII. of the Ceylon Penal Code with imprisonment for a term of three years, that is to say, the offence of house-breaking by night (*describe the offence in the words used in the section under which the offender was convicted*), which conviction is still in full force and effect, and that you are thereby liable to enhanced punishment under section 68 of the Ceylon Penal Code.

XXIII.—Indictment on Committal by a Police Court.

(See Sections 263 and 281.)

The Queen *v. A. B.*

Whereas *A. B.*, of ———, has been committed for trial by the police court of ———, and this court has been duly designated as the court of trial, the said *A. B.* now stands before this court for trial accordingly; and the charges against him are:

(1) ———
(2) ———
(3) ———

The ——— day of ———, 18 —.

Signature ———.

XXIV.—Same on transfer by order of Supreme Court.

(See Sections 264 and 280.)

Reg. *v. A. B.*

Whereas, after proceedings had against *A. B.*, of ———, in the police court of ——— (*or* in the district court of ———), the case was by order of the Supreme Court transferred to this court for trial; the said *A. B.* now stands before this court for trial accordingly; and the charges against him are:

(1) ———
(2) ———
(3) ———

The ——— day of ———, 18 —.

Signature ———.

XXV.—Warrant of Commitment on a Sentence of Imprisonment or Fine, if passed by a Magistrate.

(See Sections 220 and 223.)

To the Fiscal of the ——— Province.

Whereas on the ——— day of ———, 18 —, (*name of prisoner*), the (first, second, third, *as the case may be*) prisoner in case No.———,* was convicted before me (*name and official designation*) of the offence of (*mention the offence or offences concisely*), under section ——— (*or* sections) of the Ceylon Penal Code (*or* of Ordinance ———), and was sentenced to (*state the punishment fully and distinctly*):

This is to authorise and require you to receive the said (*prisoner's name*) into your custody in prison at ———, together with this warrant, and there carry the aforesaid sentence into execution according to law.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

* XXVI.—In cases of jurisdiction by consent, under section 219, after the asterisk, *add* "who consented that the charge should be tried by me."

XXVII.—Warrant of Imprisonment on failure to recover Amends by Distress.

(See Section 236.)

To the Fiscal of the ——— Province.

Whereas (*name and description*) has brought against (*name and description of the accused person*) the complaint that (*mention it concisely*), and the same has been dismissed as frivolous (*or* vexatious), and the order of dismissal awards payment by the said (*name of complainant*) of the sum of rupees ——— as amends; and whereas the said sum has not been paid and cannot be recovered by distress of the movable property of the said (*name of complainant*), and an order has been made for his simple imprisonment in prison for the period of ——— days, unless the aforesaid sum be sooner paid:

This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), subject to the provisions of section 65 of the Ceylon Penal Code, unless the said sum be sooner paid, and on the receipt thereof forthwith to set him at liberty; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXVIII.—Summons to a Witness.

(See Sections 45 and 167.)

To ———, of ———.

Whereas complaint has been made before me that ———, of ———, has (*or* is suspected to have) committed the offence of (*state the offence concisely, with time and place*), and it appears to me that you are likely to give material evidence for the prosecution:

You are hereby summoned to appear before this court on the ——— day of ——— next, at ten o'clock in the forenoon, to testify what you know concerning the matter of the said complaint, and not to depart thence without leave of the court; and you are hereby warned that if you shall, without just excuse, neglect or refuse to appear on the said date, a warrant will be issued to compel your attendance.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXIX.—Precept to Fiscal to Summon Jurors.

(See Section 333.)

To the Fiscal of ———.

Whereas a criminal session of the Supreme Court is appointed to be held in the court-house at ——— on the ——— day of ——— next, and the names of the persons stated in the form annexed hereto have been duly drawn by lot from among those named in the revised list of jurors and assessors furnished to this court; you are hereby required to summon the said persons to attend at the said sessions at 10 A.M. on the said date, and, within such date, to certify that you have done so in pursuance of this precept.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXX.—Summons to a Juror.

(See Section 335.)

To (*name*), of (*place*).

Pursuant to a precept directed to me by the Supreme Court requiring your attendance as a juror at the next criminal session at ———, you are hereby summoned to attend at the said session at (*place*) at ten o'clock in the forenoon on the ——— day of ——— next.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXXI.—Warrant of Commitment and Execution under Sentence of Death.

(See Section 374.)

To the Fiscal of the ——— Province.

Whereas, at the session held before me on the ——— day of ———, 18 —, (*name of prisoner*), the (first, second, third, *as the case may be*) prisoner in case No. ——— of the calendar at the said session, was duly convicted of the offence of culpable homicide amounting to murder, under section 296 of "The Ceylon Penal Code," and sentenced to suffer death, which sentence was, under the provisions of the 374th section of "The Criminal Procedure Code, 1883," respited until the ——— day of ———, 18 — :

This is to authorize and require you, the said fiscal, to receive the said (*prisoner's name*) into your custody, together with this warrant, and him safely keep ; and to carry the said sentence into execution by causing the said ——— to be hanged by the neck until he be dead, at (*time and place of execution*), unless the said ——— shall be pardoned, or the said execution respited, or the said sentence commuted by the Governor, and to return this warrant to the court with an endorsement certifying what you have done hereunder.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXXI. *a.*—Certificate of Medical Officer.

(See Section 374 *d.*)

I, *A. B.*, the medical officer of the prison (*as the case may be*), hereby certify that I have duly examined the body of *C. D.*, on whom judgment of death was this day executed in my presence in the (*describe prison*), and that on such examination I found that the said *C. D.* was dead.

Dated this ———.

Signed ———.

XXXI. *b.*—Certificate of Fiscal and others.

(See Section 374 *e.*)

We, the undersigned, hereby declare that sentence of death was this day executed in the (*describe prison*) on *C. D.*, in our presence.

Dated this ——— day of ———, 18 —.

———, Fiscal.
———, Justice of the Peace.
———, Jailer.
———, Minister of Religion.

XXXII.—Warrant to levy a Fine by Distress and Sale.

(See Section 378.)

To the Fiscal of the ——— Province.

Whereas (*name and description of the offender*) was on the ——— day of ———, 18 —, convicted before me of the offence of (*mention the offence concisely*), and sentenced to pay a fine of rupees ———, and whereas the said (*name*), although required to pay the said fine, has not paid the same or any part thereof :

This is to authorize and require you to make distress by seizure of any movable property belonging to the said (*name*) which may be found within the district of ——— ; and, if within (*state the number of days or hours allowed*) next after such distress the said sum shall not be paid (*or* forthwith), to sell the movable property distrained, or so much thereof as shall be sufficient to satisfy the said fine ; returning this warrant, with an endorsement certifying what you have done under it, immediately upon its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXXIII.—Warrant of Commitment in certain cases of Contempt when a Fine is imposed.

(See Section 445.)

To the Fiscal of the ——— Province.

Whereas, at a court holden before me on this day (*name and description of the offender*), in the presence (*or* view) of the court committed wilful contempt :

And whereas for such contempt the said (*name of offender*) has been adjudged by the court to pay a fine of rupees ———, or in default to suffer simple imprisonment for the space of (*state the number of months or days*) :

This is to authorize and require you to receive the said (*name of offender*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*), unless the said fine be sooner paid ; and, on the receipt thereof, forthwith to set him at liberty, returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXXIV.—Magistrate's or Judge's Warrant of Commitment of Witness refusing to Answer.

(See Section 449.)

To the Fiscal of the ——— Province.

Whereas (*name and description*), being summoned (*or* brought before this court) as a witness, and this day required to give evidence on an inquiry into an alleged offence, refused to answer a certain question (*or* certain questions) put to him touching the said alleged offence, and duly recorded, without alleging any just excuse for such refusal, and for his contempt has been adjudged detention in custody for (*term of detention adjudged*) :

This is to authorize and require you to take the said (*name*) into custody, and him safely keep in your custody for the space of ——— days, unless in the meantime he shall consent to be examined, and to answer the questions asked of him, and on the last of the said days, or forthwith on such consent being known, to bring him before this court to be dealt with according to law ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XXXV.—Bond and Bail-bond on a Preliminary Inquiry before a Magistrate.

(See Sections 454 and 457.)

I, (*name*), of (*place*), being brought before the magistrate of (*as the case may be*), charged with the offence of ———, and required to give security for my attendance in the police court and at the ———, if required, do bind myself to attend at the court of the said magistrate on every day of the preliminary inquiry into the said charge, and should the case be sent for trial to ———, to be, and appear, before the said court when called upon to answer the charge against me; and, in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of rupees ———.

Dated this ——— day of ———, 18—.

Signature ———.

I hereby declare myself (*or* we jointly and severally declare ourselves and each of us) surety (*or* sureties) for the said (*name*), that he shall attend at the police court of ——— on every day of the preliminary inquiry into the offence charged against him, and, should the case be sent for trial to the ———, that he shall be, and appear, before the said court to answer the charge against him, and in case of his making default therein, I bind myself (*or* we bind ourselves) to forfeit to Her Majesty the Queen the sum of rupees ———.

Dated this ——— day of ———, 18—.

Signature ———.

XXXVI.—Warrant to Discharge a Person imprisoned on Failure to give Security.

(See Section 458.)

To the Fiscal of the ——— Province (*or other officer in whose custody the person is*).

Whereas (*name and description of prisoner*) was committed to your custody under warrant of this court dated the ——— day of ———, and has since with his surety (*or* sureties) duly executed a bond under section 457 of "The Criminal Procedure Code, 1883":

This is to authorize and require you forthwith to discharge the said (*name*) from your custody, unless he is liable to be detained for some other matter.

Given under my hand this ——— day of ———, 18—.

Signature ———.

XXXVII.—Warrant of Attachment to enforce a Bond.

(See Section 476.)

To the Fiscal of the ——— Province.

Whereas (*name, description, and address of person*) has failed to appear on (*mention the occasion*) pursuant to his recognizance, and has by such default forfeited to Her Majesty the Queen the sum of rupees (*the penalty in the bond*); and whereas the said (*name of person*) has, on due notice to him, failed to pay the said sum, or show any sufficient cause why payment should not be enforced against him:

This is to authorize and require you to attach any movable *or immovable* property of the said (*name*) that you may find within the district of ———, by seizure and detention, and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand this ——— day of ———, 18—.

Signature ———.

XXXVIII.—Notice to Surety on Breach of a Bond.

(See Section 476.)

To ———, of ———.

Whereas on the ——— day of ———, 18 —, you became surety for (*name*), of (*place*), that he should appear before this court on the ——— day of ———, and bound yourself in default thereof to forfeit the sum of rupees ——— to Her Majesty the Queen; and whereas the said (*name*) has failed to appear before this court, and by reason of such default you have forfeited the aforesaid sum of rupees ———:

You are hereby required to pay the said penalty, or show cause, within ——— days from this date, why payment of the said sum should not be enforced against you.

Given under my hand this ——— day of ———, 18—.

Signature ———.

XXXIX.—Notice to Surety of Forfeiture of Bond for Good Behaviour.

(See Section 476.)

To ———, of ———.

Whereas on the ——— day of ———, 18 —, you became surety by a bond for (*name*), of (*place*), that he would be of good behaviour for the period of ———, and bound yourself in default thereof to forfeit the sum of rupees ——— to Her Majesty the Queen; and whereas the said (*name*) has been convicted of the offence of (*mention the offence concisely*) committed since you became such surety, whereby your security bond has become forfeited:

You are hereby required to pay the said penalty of rupees ———, or to show cause, within ——— days, why it should not be paid.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XL.—Warrant of Attachment against a Surety.

(See Section 476.)

To ———.

Whereas (*name, description, and address*) has bound himself as surety for the appearance of ——— (*mention the condition of the bond*), and the said (*name*) has made default, and thereby forfeited to Her Majesty the Queen the sum of rupees ——— (*the penalty in the bond*):

This is to authorise and require you to attach any movable *or immovable* property of the said (*name*) which you may find within the district of ———, by seizure and detention; and, if the said amount be not paid within three days, to sell the property so attached, or so much of it as may be sufficient to realize the amount aforesaid, and make return of what you have done under this warrant, immediately upon its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XLI.—Warrant of Commitment of the Surety of an Accused Person admitted to Bail.

(See Section 476.)

To the Fiscal of the ——— Province.

Whereas (*name and description of surety*) has bound himself as a surety for the appearance of ——— (*state the condition of the bond*), and the said (*name*) has therein made default whereby the penalty

mentioned in the said bond has been forfeited to Her Majesty the Queen ; and whereas the said (*name of surety*) has, on due notice to him, failed to pay the said sum or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of movable *or immovable* property of his, and an order has been made for his imprisonment in prison for (*specify the period*) :

This is to authorize and require you to receive the said (*name*) into your custody, with this warrant, and him safely to keep in prison for the said (*term of imprisonment*), and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XLII.—Notice to the Principal of Forfeiture of a Bond to keep the Peace.

(See Section 476.)

To (*name, description, and address*).

Whereas on the ——— day of ———, 18 —, you entered into a bond not to commit, &c. (*as in the bond*), and proof of the forfeiture of the same has been given before me and duly recorded :

You are hereby called upon to pay the said penalty of rupees ———, or to show cause before me, within ——— days, why payment of the same should not be enforced against you.

Dated this ——— day of ———, 18 —.

Signature ———.

XLIII.—Warrant to attach the Property of the Principal on Breach of a Bond to keep the Peace.

(See Section 476.)

To the Fiscal of the ——— Province.

Whereas (*name and description*) did on the ——— day of ———, 18 —, enter into a bond for the sum of rupees ———, binding himself not to commit a breach of the peace, &c. (*as in the bond*), and proof of the forfeiture of the said bond has been given before me and duly recorded ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum :

This is to authorize and require you to attach by seizure movable *or immovable* property belonging to the said (*name*) to the value of rupees ——— which you may find within the district of ———, and, if the said sum be not paid within ———, to sell the property so attached, or so much of it as may be sufficient to realize the same ; and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand this ——— day of ———, 18 —.

Signature ———.

XLIV.—Warrant of Imprisonment on Breach of a Bond to keep the Peace.

(See Section 476.)

To the Fiscal of the ——— Province.

Whereas proof has been given before me and duly recorded that (*name and description*) has committed a breach of the bond entered into by him to keep the peace, whereby he has forfeited to Her Majesty the Queen the sum of rupees ——— ; and whereas the said (*name*)

has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable *or immovable* property, and an order has been made for the imprisonment of the said (*name*) in prison for the period of (*term of imprisonment*) :

This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*) ; and to return this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18—.

Signature ———.

XLV.—Warrant of Attachment and Sale on Forfeiture of Bond for Good Behaviour.

(See Section 476.)

To the Fiscal of the ——— Province.

Whereas (*name, description, and address*) did, on the ——— day of ———, 18—, give security by bond in the sum of rupees ——— for the good behaviour of (*name, &c., of the principal*), and proof has been given before me and duly recorded of the commission by the said (*name*) of the offence of ———, whereby the said bond has been forfeited ; and whereas notice has been given to the said (*name*) calling upon him to show cause why the said sum should not be paid, and he has failed to do so or to pay the said sum :

This is to authorize and require you to attach by seizure movable *or immovable* property belonging to the said (*name*) to the value of rupees ——— which you may find within the district of ———, and if the said sum be not paid within ———, to sell the property so attached, or so much of it as may be sufficient to realize the same, and to make return of what you have done under this warrant immediately upon its execution.

Given under my hand this ——— day of ———, 18—.

Signature ———.

XLVI.—Warrant of Imprisonment on Forfeiture of Bond for Good Behaviour.

(See Section 476.)

To the Fiscal of the ——— Province.

Whereas (*name, description, and address*) did, on the ——— day of ———, 18—, give security by bond in the sum of rupees ——— for the good behaviour of (*name, &c., of the principal*), and proof of the breach of the said bond has been given before me and duly recorded, whereby the said (*name*) has forfeited to Her Majesty the Queen the sum of rupees ——— ; and whereas he has failed to pay the said sum or to show cause why the said sum should not be paid, although duly called upon to do so, and payment thereof cannot be enforced by attachment of his movable *or immovable* property, and an order has been made for the imprisonment of the said (*name*) in prison for the period of (*term of imprisonment*) :

This is to authorize and require you to receive the said (*name*) into your custody, together with this warrant, and him safely to keep in prison for the said period of (*term of imprisonment*) ; returning this warrant with an endorsement certifying the manner of its execution.

Given under my hand this ——— day of ———, 18—.

Signature ———.

24th October, 1883.

No. 3 of 1884.

An Ordinance to amend the Ordinance No. 7 of 1863, intituled "An Ordinance relating to Merchant Shipping."

Preamble.

WHEREAS doubts have arisen whether a person who has served as master of a ship belonging to a foreign State or Power prior to the Ordinance No. 7 of 1863, is not entitled under sub-section 1 of section 12 of the said Ordidance No. 7 of 1863 to a certificate of service as master of a British foreign-going ship: And whereas it is expedient to remove such doubts and at the same time to bring the law of this colony into unison with the law of the United Kingdom upon this point: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Merchant Shipping Amendment Ordinance, 1884."

Repeal.

2 Section 12 of the principal Ordinance, No. 7 of 1863, is hereby repealed.

Certificates of service to master and mates who have served as such prior to January first, 1851.

3 Certificates of service differing in form from certificates of competency shall be granted as follows; that is to say,

(1) Every person who, before the first of January, one thousand eight hundred and fifty-one, served as master in the British merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank, in the service of Her Majesty or of the late East India Company, shall be entitled to a certificate of service as master.

(2) Every person who, before the first of January, one thousand eight hundred and fifty-one, served as mate in the British merchant service, shall be entitled to a certificate of service as mate.

And each of such certificates of service shall contain particulars of the name, place, and time of birth and of the length and nature of the previous service of the person to whom the same is delivered, and the examiners shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have obtained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

Ordinance to be construed as one with Ordinance No. 7 of 1863

4 This Ordinance and the Ordinance No. 7 of 1863, saving the clause hereby repealed, shall be read as one Ordinance.

4th February, 1884.

No. 6 of 1884.*

An Ordinance to amend Ordinance No. 4 of 1863, entitled "An Ordinance to authorise District Courts to institute inquiries into Wrecks."

WHEREAS it is expedient to amend Ordinance No. 4 of 1863, entitled "An Ordinance to authorize District Courts to institute Inquiries into Wrecks:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance may be cited as "The Shipping Inquiry and Wrecks Amendment Ordinance, 1884." Short title.

2 In addition to the powers and authority conferred upon district courts by Ordinance No. 4 of 1863, entitled "An Ordinance to authorize District Courts to institute Inquiries into Wrecks," a district court is hereby authorized and empowered to make any inquiry, and to exercise any jurisdiction which under the Imperial "Merchant Shipping Colonial Enquiries Act, 1882," may be made and exercised by a colonial court in the manner therein prescribed, and subject to the provisions therein mentioned. District courts to have jurisdiction under Imperial "Merchant Shipping Colonial Enquiries Act, 1882."

3 Section 6 of Ordinance No. 4 of 1863 is hereby repealed. Repeal of section 6 of Ordinance No. 4 of 1863.

4 This Ordinance shall be read and construed together with Ordinance No. 5 of 1861 and Ordinance No. 4 of 1863. Ordinance to be read with Ordinances No. 5 of 1861 and No. 4 of 1863

4th February, 1884.

No. 7 of 1884.

An Ordinance to further amend the Ordinance No. 3 of 1861, intituled "An Ordinance to authorise the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof."

(See No. 3 of 1861.)

WHEREAS by the 4th section of Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," the Governor is empowered to call out the volunteer force or any part thereof whenever occasion may require: And whereas no provision is made by the said Ordinance to subject the members of the volunteer corps, enrolled under the said Ordinance, to "The Army Act, 1881," when so called out by the Governor as aforesaid: Preamble.

And whereas it is expedient to amend the said Ordinance in this respect: It is hereby enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

* See English Acts 32 Vict., chapter 11, and 45 Vict., chapter 76.

Amendment of section 16 of Ordinance No. 3 of 1861.

1 Section 16 of the Ordinance No. 3 of 1861, intituled "An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof," is hereby amended, and the said section shall from and after the coming into operation of this Ordinance be construed and read as though the words "or whenever the volunteer force or any part thereof has been called out by the Governor under the power in that behalf hereinbefore provided" had been inserted in the said 16th section between the sentence "or of rebellion or insurrection arising or existing within the same" and the sentence "or whilst on actual duty in such cases as aforesaid."

Ordinance not to affect amendment of Ordinance No. 3 of 1861 by Ordinance No. 8 of 1881.

2 Nothing herein contained shall affect the amendment of the said 16th section of the said Ordinance effected by the Ordinance No. 8 of 1881, intituled "An Ordinance to amend the Ordinance No. 3 of 1861, intituled 'An Ordinance to authorize the formation of Volunteer Corps in this Colony, and to provide for the good order and discipline thereof.'"

Short title.

3 This Ordinance may be cited as "The Volunteer Corps Amendment Ordinance, 1884."

When Ordinance to take effect.

4 This Ordinance shall commence and take effect from and after the date upon which Her Majesty's assent thereto shall have been proclaimed* in the *Government Gazette* of the colony and not sooner.

4th February, 1884.

No. 10 of 1884.

An Ordinance to establish further Tolls, and to discontinue certain Tolls.

(*See No. 14 of 1867.*)

Preamble.

WHEREAS it is expedient to establish the tolls hereinafter specified, and to discontinue the tolls hereinafter specified: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Establishment of certain tolls.

1 From and after the passing of this Ordinance tolls shall be established on and in respect of the following roads and ferries, viz.:

Western Province.

On the road from Colombo to Galle, between the 29th and 30th mileposts, at or near the village Ṭagama. Such toll to clear and to be cleared by the toll already established at Nágoḍa.

On the road from Colombo to Galle, at a point between the 14th and 15th mileposts.

On the road from Negombo to Giriulla, between the 4th and 6th mileposts. Such toll to clear and to be cleared by the one already established between the 8th and 9th mileposts on the same road.

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* Proclaimed the 2nd day of May, 1884.

Tolls.

On the road from Pánaduré to Nambapána, between the 30th and 31st mileposts.

At or near the ferry across the Pánaduré-gaṇga at Hénemulla, on the road connecting the old and new roads from Colombo to Galle between the 14th and 15th mileposts on the new road

At or near the ferry across the Pánaduré-gaṇga at Gorakápola on the road connecting the old and new roads from Colombo to Galle between the 14th and 15th mileposts on the new road. Such toll to clear and to be cleared by the one last mentioned.

At or near the ferry across the Kelani-gaṇga at Púgoḍa, on the minor road from Púgoḍa to Kosgama.

At or near the ferry at Sídúwa across the Daṇḍugam-oya, on the road from Sídúwa to Henaratgoḍa.

At the ferry at Kospalankissa across an arm of the Bolgoḍa canal, on the road from Moraṭuwa to Kesbéwa. Such ferry toll to clear and to be cleared by the toll at Mámpe.

North-Western Province.

On the road from Giriulla to Daṇkoṭuwa, in the village of Etiyawala in the Puttalam District, at or near a garden called Kadurugahawatta.

2 From and after the first day of January, one thousand eight hundred and eighty-four, the levy of tolls hitherto established in respect of the following roads and ferries shall be discontinued, viz.: Discontinuance of certain tolls.

Western Province.

On the road from Colombo to Galle, between the 28th and 29th mileposts.

On the road from Colombo to Galle, at the 14½ milepost.

At the ferry at Horakélé.

At the ferry at Kaṭukurunda.

On the road from Moraṭuwa to Kesbéwa, at the bridge which existed at Kospalankissa.

On the road from Sídúwa to Henaratgoḍa, at or near the bridge which existed at Sídúwa.

North-Western Province.

On the minor road from Giriulla to Daṇkoṭuwa in the Puttalam District, at a place called Helambagahagoḍella in the village of Daṇkoṭuwa.

Central Province.

At the ferry across the Umá-oya.

At the ferry across the Bilihul-oya.

That established on and in respect of the road from Iriyagama to Aladeniya.

On the road from Badulla to Hambantota at Ella.

13th February, 1884.

No. 11 of 1884.

An Ordinance to authorise the Governor's Signature to Crown Grants to be attached by a Stamp.

(See No. 30 of 1884.)

Preamble.

WHEREAS it is expedient to authorize the Governor's signature to Crown grants of land in this colony to be attached by means of a stamp: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Governor's signature may be attached by stamp or fac-simile

1 (1) It shall be lawful for the Governor in all Crown grants of land hereafter to be made by him in the name and on behalf of Her Majesty the Queen, or her successors, to cause his signature thereto to be attached by means of a stamp or fac-simile of his sign manual, and grants so signed shall be of the same effect, force, and validity to all intents and purposes as if the said grants bore the actual autograph or sign manual of the Governor: Provided always that all such grants shall be countersigned by the Colonial Secretary or other person duly appointed by the Governor in that behalf.

Governor's signature to Crown grants when attached by stamp to be attested by private secretary or other officer [§1, 30 of 1884]

1 (2) Whenever the Governor shall cause his signature to be attached to any Crown grant of land by means of a stamp or fac-simile of his sign manual, every such signature shall be so attached in the presence of the private secretary to the Governor, or of some other officer duly authorized by the Governor on that behalf, who shall certify on the face of such Crown grant that the Governor's signature was so attached in his presence.

Penalties for using, forging, or counterfeiting stamp, &c.

2 Every person who shall commit any one of the following offences shall be punished with imprisonment with or without hard labour for a term which may extend to ten years and shall not be less than two years, and shall also be liable to a fine not exceeding one thousand rupees:

Every person—

(1) Who shall without authority of the Governor obtain possession of, or who shall without the authority of the Governor affix, the stamp or fac-simile of the sign manual of the Governor to any document purporting to be a Crown grant of land; or

(2) Who shall forge, counterfeit, or cause or procure to be forged or counterfeited any die, plate, or other instrument or any part of any die, plate, or other instrument which has been or shall or may be provided, made, or used by or under the direction of the Governor (or by or under the direction of any person or persons legally authorized in that behalf) for the purpose of attaching his signature to Crown grants in manner aforesaid; or

(3) Who shall forge, counterfeit, or imitate, or cause or procure to be forged, counterfeited, or imitated the stamp, mark, or impression of any such die, plate, or other instrument which has been or shall or may

be provided, made, or used as aforesaid upon any parchment, paper, or other substance or material whatever; or

(4) Who shall knowingly and without lawful excuse (the proof whereof shall be on the person accused) have in his possession any false, forged, or counterfeit die, plate, or other instrument, or part of any such die, plate, or other instrument resembling or intended to resemble either wholly or in part any die, plate, or other instrument which has been or shall or may be provided, made, or used as aforesaid; or

(5) Who shall stamp or mark or cause or procure to be stamped or marked any parchment, paper, or other substance or material whatsoever with any such false, forged, or counterfeit die, plate, or other instrument or part of any such die, plate, or other instrument; or

(6) Who shall knowingly utter, offer, dispose of, or put off, or shall knowingly and without lawful excuse (the proof whereof shall be on the person accused) have in his possession any parchment, paper, or other substance or material having thereon the impression or any part of the impression of any such false, forged, or counterfeit die, plate, or other instrument or part of any such die, plate, or other instrument as aforesaid, or having thereon any false, forged, or counterfeit stamp or impression resembling or representing either wholly or in part or intended or liable to pass or be mistaken for any stamp, mark, or impression of any such die, plate, or other instrument which has been or shall or may be so provided, made, or used as aforesaid.

14th February, 1884.

No. 12 of 1884.

An Ordinance to provide against Petty Thefts in the Harbours and Wharves of the Ports of this Colony.

(*See No. 17 of 1869.*)

Preamble.

WHEREAS it is expedient to provide against petty thefts and the fraudulent removal and concealment of property during the loading, transit, and landing of goods from the ship's side to the wharves and quays of the ports of this colony: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

This Ordinance to be read and construed with Ordinance No. 17 of 1869.

1 This Ordinance shall be read and construed as one with the Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon," hereinafter called "the principal Ordinance."

Goods not specified in boat-note when found concealed in any boat to be presumed to have been stolen or unlawfully received by tindal and boatmen of such boat.

2 Whenever goods not specified in the boat-note mentioned in the 31st section of the principal Ordinance have been concealed in any boat during the loading, transit, or unloading of such boat in any harbour or port of this colony, the discovery of such goods on board such boat shall be received in all courts of this colony as *primâ facie* evidence that the goods have been either stolen by the tindal and boatmen employed in such boat, or that the same have been unlawfully received on board by the tindal and boatmen employed on such boat with knowledge that the same have been stolen; and shall be conclusive thereof unless and until such tindal and boatmen or any of them shall satisfactorily account for the presence of such goods on board such boat.

Goods not mentioned in boat-note when found in possession of any tindal or boatman when on board of boat or on wharves to be presumed to have been stolen.

3 Whenever goods not specified in the boat-note mentioned in the 31st section of the principal Ordinance shall be found in the possession of any tindal or boatman when on board the boat in which he is employed, or when on the quays or wharves of any port or harbour of this colony, such tindal or boatman, in whose possession such goods are found, shall be presumed to have stolen the goods or to have unlawfully received the same knowing them to have been stolen; unless and until such tindal or boatman shall satisfactorily account for his possession thereof.

Nothing in this Ordinance to affect any forfeiture, &c., incurred by tindal or boatman under Ordinance No 17 of 1869

4 Nothing in this Ordinance contained shall affect any forfeiture, penalty, or liability incurred by any tindal or boatman or by any other person whomsoever under the principal Ordinance in respect of such goods as are referred to by this Ordinance or in respect of the boat.

14th February, 1884.

No. 13 of 1884.

An Ordinance to amend Ordinance No. 16 of 1865, intituled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island."

(*See No. 16 of 1865.*)

Preamble.

WHEREAS doubts have arisen whether a police officer is authorized under the provisions of "The Police Ordinance, 1865," to execute a warrant in a town, place, or district, other than a town, place, or district in which, under any of the provisions of the said Police Ordinance, a police force has been established, and whereas it is expedient to remove such doubts: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

1 This Ordinance and Ordinance No. 16 of 1865, entitled "An Ordinance to provide for the establishment and regulation of a Police Force in this Island," shall be construed and read as one Ordinance.

Ordinance to be read with "The Police Ordinance, 1865."

2 Every police officer to whom any description of warrant shall have been addressed for execution is hereby authorized and empowered to execute any such warrant in any and every part of this island as well as in any town, rural district, or place other than large towns or rural districts, in which a police force shall under the provisions of the aforesaid Ordinance have been established, anything in the said Ordinance to the contrary notwithstanding. Provided, however, that nothing herein contained shall justify any police officer executing any warrant or process illegally issued or entrusted to him for service, or shall relieve him from any penalty or liability incurred in respect of the execution of any warrant improperly or illegally issued, or in respect of any neglect of duty or abuse of the powers hereby conferred.

Police officers to have authority to execute warrants in all parts of the island.

14th February, 1884.

No. 18 of 1884.

An Ordinance to authorize a Loan of Two hundred and Fifty thousand Rupees to the Municipality of Kandy for the purpose of paying off a Loan advanced under the authority of Ordinance No. 13 of 1874 and Ordinance No. 1 of 1879 for the construction of Waterworks.

(*See No. 29 of 1884.*)

Preamble.

WHEREAS by the 3rd section of the Ordinance No. 13 of 1874, intituled "An Ordinance for making provision for the advance of a sum of money, by way of loan, for the construction of Waterworks for the Municipalities of Galle and Kandy," the Governor, with the advice of the Executive Council, was empowered from time to time to advance to the municipality of Kandy any sum or sums not exceeding in the whole two hundred and twenty thousand rupees, to be applied exclusively in the construction of waterworks for the said municipality: And whereas by Ordinance No. 1 of 1879, intituled "An Ordinance for making provision for the advance of a sum of money, by way of supplementary loan, for the construction of Waterworks for the Municipality of Kandy," the Governor, with the advice of the Executive Council, was empowered to advance a further sum not exceeding thirty thousand rupees: And whereas a sum of two hundred and fifty thousand rupees has been advanced by the Government of this colony to the municipality of Kandy in pursuance of the aforesaid powers: And whereas provision was made by the said Ordinances

for liquidating the principal and interest on every sum so advanced by means of an annual charge of seven and a half per cent. on the total sum advanced, which annual charge of seven and a half per cent. was declared to be applicable to the payment of interest at five per cent. on the balance at the time outstanding, and the remainder towards the extinction of the debt : And whereas the amount at present outstanding upon the said loan for principal is two hundred and fifty thousand rupees : And whereas difficulties have arisen in the due payment of the interest and sinking fund aforesaid, and it has become expedient to reduce the rate of interest and sinking fund payable in respect of the said sum of two hundred and fifty thousand rupees, and for that purpose to pay off the old loan and to raise a new loan in lieu thereof : Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Short title.

1 This Ordinance may be cited as "The Kandy Waterworks Loan Ordinance, 1884."

Repeal of Ordinance No. 13 of 1874, in so far as it relates to the municipality of Kandy, and Ordinance No. 1 of 1879.

Repeal not to affect past operation of Ordinance.

2 Ordinance No. 13 of 1874, in so far as it relates to the municipality of Kandy, and Ordinance No. 1 of 1879 are hereby repealed : Provided that this repeal shall not affect—

(1) The past operation of the said Ordinances, nor anything duly done or effected under them ;

(2) Nor any right, privilege, obligation, or liability acquired, accrued, or incurred under the said Ordinances ;

(3) Nor any legal proceeding or remedy in respect of such right, privilege, obligation, or liability as aforesaid.

Interpretation clause.

3 The term "house" includes houses, boutiques, huts, sheds, and every inhabitable tenement or building.

Power of Governor and Executive Council to advance two hundred and fifty thousand rupees to municipality of Kandy.

4 The Governor, with the advice of the Executive Council, is hereby empowered to advance to the municipality of Kandy a loan not exceeding two hundred and fifty thousand rupees, to be applied exclusively in the liquidation of the principal of the loans from time to time advanced under the Ordinances No. 13 of 1874 and No. 1 of 1879.

Municipality of Kandy authorized to impose water-rate for paying off loan.
[§ 2, 29 of 1884]

5 For the purpose of liquidating the principal and interest on the loan advanced to the municipality of Kandy, under the powers contained in the 4th section of this Ordinance, the said municipality is hereby authorized and empowered to impose and enforce a water-rate on all householders who own or occupy a house *within the limits of the municipality of Kandy as set forth and defined in the schedule hereto.*

Rate to be levied on houses within municipality.
[§ 2, 29 of 1884]

6 Such water-rate shall be leviable upon every house whatsoever *within the limits of the municipality of Kandy as set forth and defined in the schedule hereto*, whether inhabited or not, and whether supplied with water from the municipal waterworks or not ; and each house shall be assessed at the value fixed for the payment of police tax thereon.

7 Such water-rate shall be payable on the first day of each quarter in respect of the water to be supplied during the three months next ensuing, and shall be a first charge upon every house *within the limits of the municipality of Kandy as set forth and defined in the schedule hereto*, and shall take precedence over every mortgage, hypothecation, or encumbrance thereon whatsoever: Provided always that on each occasion that a claim for arrears is made in respect of any one house, such first charge and hypothecation be and it is hereby limited to not more than twelve months' arrears of water-rate.

Rate to be a first charge on house property, and to be paid quarterly in advance.

[§ 2, 29 of 1884]

8 The proceeds of the rate so levied (after payment of the expenses annually incurred in the supply of water and in the collection of the rate) shall be applied in the liquidation of the principal and interest of the loan hereby authorized, and to no other purpose whatsoever, and in the event of there being in any one year any surplus after due payment of the interest and sinking fund of the said loan in the manner hereinafter mentioned, such surplus shall be carried by the municipal council to the credit of the water-rate account, and shall not form part of the municipal fund, anything in the Ordinance No. 17 of 1865 to the contrary notwithstanding.

Proceeds of rate to be applied in repayment of loan.

9 The loan shall bear interest (including the amount required for a sinking fund as hereinafter provided) at the rate of five per cent., amounting to twelve thousand five hundred rupees per annum, which sum shall be paid in equal half-yearly instalments to the Treasurer of this colony by the municipality of Kandy on the thirtieth day of June and the thirty-first day of December in each and every year until the principal and interest due on the loan hereby authorized has been fully liquidated.

Loan to bear interest at five per cent. per annum.

10 Out of this sum of twelve thousand five hundred rupees, the Government of this colony shall be entitled to retain as interest four per cent. per annum upon the amount from time to time due to the Government in respect of the loan, and the balance of the said sum of twelve thousand five hundred rupees shall be annually applied to the liquidation of the principal sum of two hundred and fifty thousand rupees until the same be extinguished.

Government to retain as interest four per cent. per annum on amount due, and to apply balance towards liquidation of debt

11 In the event of the municipality failing to collect and pay into the Colonial Treasury any of the instalments declared to be payable under the 9th section of this Ordinance, within thirty days of the same becoming due, it shall be lawful for the Governor in Executive Council to empower the government agent of the Central Province to collect the water-rate independently of the municipal council. Provided, however, that no person who shall have paid his water-rate in respect of any quarter to the municipal collectors shall be required to pay such rate in respect of the same quarter to the government agent; nor shall any person who has paid his quarter's water-rate to the government agent be required to pay such rate in respect of the same quarter to the municipality.

If municipality fail to pay instalments under section 9, Governor in Executive Council may authorize government agent to collect water-rate.

Loan to be a first charge on the rates, taxes, &c., of the municipality.

12 The loan hereby authorized is hereby declared to be a first charge on the rates and taxes, rents, and all other income and property whatsoever of the municipality of Kandy, and such charge and hypothecation shall take effect from the date at which this Ordinance shall come into operation.

Date of Ordinance coming into operation.

13 This Ordinance shall come into operation on the first day of April, 1884.

SCHEDULE TO ORDINANCE No. 29 OF 1884.

North-East.—A straight line from the first milepost on the Kaṭugastoṭa road to the old watch-hut at the junction of the road to Mr. Peiris's property and Malabar street.

East.—From the old watch-hut on Malabar street along Lady Longden's drive to the Ukurçsapiṭiya bridge.

South.—From the Ukuressapiṭiya bridge along the municipal limits, as fixed prior to the Proclamation of twenty-seventh March, 1877, up to the crossing over the railway of the path to Falmouth Lodge.

West.—From the said railway crossing along the said path up to the Pérádeniya road, and thence in a straight line to the gap near the boundary of the Primrose Hill estate, on the Haloluwa road.

North-West.—A straight line from the said gap on the Haloluwa road to the Western Redoubt, and thence to the first milestone on the Kaṭugastoṭa road.

14th February, 1884.

No. 19 of 1884.

An Ordinance to declare the terms and conditions applicable to Loans authorized to be raised by the Government of Ceylon, and to provide for the creation of Ceylon Inscribed Stock.

Preamble.

WHEREAS it is expedient to define in one Ordinance the terms and conditions applicable to loans hereafter authorized to be raised by the Legislature of Ceylon: And whereas it is expedient to provide for the creation of inscribed stock, and to enable this colony to take advantage of the provisions of an Act of the Imperial Parliament intituled "The Colonial Stock Act, 1877": Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Definition clause.

1 In this Ordinance, unless the context otherwise requires—

The expression "Governor" means the person for the time being administering the Government of this colony;

The expression "Crown Agents" means the persons for the time being acting as Crown Agents for the Colonies in England.

2 As often as by any Ordinance passed during the present or any other session, authority shall be given to raise any sum of money for the purposes mentioned in such Ordinance, the Governor may from time to time, as he may deem expedient, raise such sum either by debentures or by Ceylon inscribed stock, or partly by debentures and partly by inscribed stock.

Loans to be raised by debentures or Ceylon inscribed stock.

3 The principal moneys and interest secured by the debentures or inscribed stock issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Government of Ceylon.

Loans to be a charge upon general revenues.

4 When the borrowing shall be upon debentures, such debentures shall be issued in London on behalf of the Government of Ceylon by the Crown Agents, upon the best and most favourable terms that can be obtained, and shall be signed by any two of them on that behalf.

Borrowing upon debentures.

5 Every debenture issued under the provisions of this Ordinance shall be for a sum of not less than one hundred pounds sterling, and shall bear interest at a rate not exceeding five per cent. per annum.

Amount of each debenture.

6 Every debenture shall, before being issued, be registered in a register book to be kept for that purpose at the office in London of the Crown Agents.

Registry of debentures.

7 There shall be attached to every debenture coupons for the payment of the interest to become due in each half-year upon the principal secured by the debenture. The coupons shall be sufficient in number to provide for the payment of the interest, either during the whole period for which the debenture has to run, or for such limited period as the Crown Agents, acting on behalf of the Government of Ceylon, may determine.

Interest coupons.

8 The debentures, and the coupons thereto, may be in such form as the Governor, or the Crown Agents acting on his behalf, may direct or approve.

Form of debentures and coupons.

9 Every debenture and coupon, and the right to receive the principal and interest secured or represented thereby, shall be transferable by delivery.

Debentures and coupons transferable by delivery.

10 So long as any of the debentures remain outstanding, the Governor shall in each half-year ending with the day on which the interest on the debentures falls due, appropriate out of the general revenues and assets of this colony a sum equal to one half-year's interest on the whole of the debentures previously issued, including any which may have been redeemed, but exclusive of any which may have been at any time exchanged for inscribed stock, and shall remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day when it falls due. After the date specified in the

Mode of providing for payment of interest and principal of debentures.

Ordinance authorizing the loan as that on which the contributions to the sinking fund shall commence, the Governor shall, in each half-year ending as aforesaid, appropriate out of the said revenues and assets of this colony an additional sum equal to ten shillings sterling per centum on the total nominal amount of all the debentures issued on or before the first day of that half-year, including any which may have been redeemed, but exclusive of any which may have been at any time exchanged for inscribed stock, and shall remit that sum to the Crown Agents with the remittance hereinbefore mentioned.

Application of moneys remitted to Crown Agents.

11 The Crown Agents shall, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, place and keep the moneys so remitted to them, or so much thereof as may not be required for immediate payments, on deposit at interest in their names with some bank or banks in London or Westminster, and shall hold all such moneys and the accumulations thereon in trust, to apply them in the first place in payment of the interest for the current half-year upon the debentures for the time being outstanding, and in the next place in the formation of a sinking fund.

Payment of interest.

12 The interest upon the principal secured by each debenture shall run from the day named in that behalf in the debenture, and shall be paid half-yearly on the days named in that behalf in the debenture, at the office in London of the Crown Agents.

Application of sinking fund.

13 The sinking fund shall be applied in the first place in payment of all expenses of, or incidental to, the redemption of debentures, including the charges of the notary public attending at any drawing thereof, and the costs and expenses of all notices required by this Ordinance to be given, and in the next place, and subject to the aforesaid payments, in repayment of the principal moneys for the time being secured by the debentures.

Debentures to be redeemed by purchase or by annual drawings.

14 The debentures shall, at the option of the Crown Agents, subject to the approval of Her Majesty's Principal Secretary of State for the Colonies for the time being, be redeemed either by purchase in the open market or by annual drawings, and, subject to the aforesaid payments, the sum to be applied annually to such redemption shall correspond as nearly as may be to, but not exceed, the amount for the time being standing to the credit of the sinking fund.

Appointment of day for drawing of debentures.

15 After the date specified in the Ordinance authorizing a loan as that on which the contributions to the sinking fund shall commence in respect of that loan, and so long thereafter as any of the debentures remain outstanding and unsatisfied, the Crown Agents shall in every year, unless the whole of the money applicable in that year to the redemption of debentures has been applied in the purchase thereof, appoint a day in that year for the drawing by lot of the debentures to be redeemed.

16 If a day is appointed for drawing, the Crown Agents shall give, by advertisement in the London *Times* newspaper, not less than fifteen days' previous notice, specifying the day on which, and the hour and place at which, the drawing will take place, and the nominal amount of the debentures to be redeemed at that drawing.

Notice of time and place appointed for drawing.

17 On the day and at the hour and place so specified, the Crown Agents shall hold a meeting, at which the holder of any debenture may, if he thinks fit, be present, and shall then in the presence of such debenture-holders (if any) as may attend, and of a notary public, draw by lot out of the whole number of debentures for the time being outstanding debentures of the specified nominal amount.

Mode of drawing.

18 The Crown Agents shall thereupon declare the distinguishing numbers of the debentures drawn for redemption, and shall as soon as may be, by advertisement in the London *Times* newspaper, specify those numbers, and appoint a day (not being later as to each debenture than the day on which the then current half-year's interest thereon is payable) on which the principal moneys secured by the debentures so distinguished will be repaid.

Notice of debentures drawn for redemption.

19 On the day so appointed, the Crown Agents shall, at their office in London, on demand, pay to the holders of the debentures drawn for repayment, the principal moneys secured by those debentures, with all interest payable thereon up to that day.

Payment of drawn debentures.

20 From and after the day appointed for the repayment of any debenture, all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal shall have been demanded or not.

Cesser of interest from day appointed for payment of principal.

21 Upon the repayment of the principal moneys secured by any debenture, the debenture with all the coupons thereunto belonging shall be delivered up to the Crown Agents, to be by them cancelled and forwarded to the Government of Ceylon. Any debenture redeemed by purchase shall likewise be so cancelled and forwarded.

Redeemed debentures to be cancelled.

22 When borrowing shall be upon inscribed stock, such stock shall be issued in England by the Crown Agents under the provisions of the Act of the Imperial Parliament, intituled "The Colonial Stock Act, 1877," upon the best and most favourable terms that can be obtained, and on such other conditions, subject to the provisions of this Ordinance, as the Governor may before the issue thereof from time to time direct, provided that the interest on such inscribed stock shall not exceed four per cent. per annum.

Borrowing upon inscribed stock.

23 All the inscribed stock which may be created under the provisions of this Ordinance shall be redeemable at par on a date to be named in that behalf by the Crown Agents when issuing the stock, such date not being later than fifty years from the date of issue, from and after which date all interest on the principal moneys secured thereby shall cease and determine, whether payment of the principal shall have been demanded or not.

When the principal is to be repaid.

Mode of providing for payment of interest and principal of inscribed stock.

24 So long as any of the inscribed stock shall remain unredeemed, the Governor shall, in each half-year ending with the day on which the interest on such inscribed stock falls due, appropriate out of the general revenues and assets of this colony a sum equal to one half-year's interest on the whole of such inscribed stock, and shall remit that sum to the Crown Agents at such time as will enable them to pay thereout the then current half-year's interest on the day when it falls due. The Governor shall further appropriate out of the said revenues and assets in each half-year ending as aforesaid an additional sum for the formation of a sinking fund equal to ten shillings per centum on the total nominal amount of such inscribed stock, except in the following cases:

(*a*) In the case of that portion of inscribed stock created and exchanged for debentures, which debentures were subject to repayment by annual drawings, the said further appropriation shall commence at the date at which the sinking fund on the debentures so exchanged would have commenced had the debentures remained outstanding.

(*b*) In case of loans raised by the issue of inscribed stock after the date of this Ordinance, the said further appropriation shall commence at the date specified in the Ordinances authorizing such loans for the commencement of the sinking fund respectively.

Sinking fund to be invested.

25 The amount so remitted for the formation of a sinking fund for the redemption of inscribed stock shall be invested in the names of trustees to be appointed by the Secretary of State for the Colonies, the trustees shall also from time to time invest the dividends, interest, or produce arising from such investment, so that the same may accumulate by way of compound interest and be applied by the Crown Agents towards the final extinction of the debt.

Securities in which sinking fund is to be invested

26 All sums paid to the account of such sinking fund and the interest thereof shall be invested in Imperial or Colonial Government securities at the discretion of the trustees.

Any deficiency in sinking fund to be made good out of general revenues and assets.

27 In case the said sinking fund shall be insufficient to provide the necessary funds for the redemption of the inscribed stock when it shall have become due, the deficiency shall be made good out of the general revenues and assets of the colony.

Expenses to be paid out of sinking fund.

28 All expenses of, or incidental to, the management of the sinking fund, or to the repayment of the principal moneys borrowed, shall be paid out of the sinking fund.

Governor may order or authorize:

29 The Governor shall also have and may exercise the following powers and authorities, or any of them:

Conversion of debentures into inscribed stock.

(*a*) He may from time to time declare all or any of the existing debenture loans of this colony to be convertible into inscribed stock of such denominations and on such conditions as he may before the creation thereof from time to time determine.

(*b*) He may authorize the creation and issue of such an amount of inscribed stock in exchange for the securities held for such loans as may be necessary.

Creation and issue of inscribed stock in exchange for other securities.

(*c*) He may authorize the creation and sale of any such inscribed stock for the purpose of raising money, for redeeming any outstanding loans, and in paying any expenses in the creation of inscribed stock, and otherwise carrying out the provisions of this Ordinance, on such conditions as he may determine.

Creation and sale of inscribed stock to raise loans and for other purposes.

(*d*) Any conversion so authorized may be effected either by arrangement with the holders of existing securities, or by purchase thereof out of moneys raised by the sale of inscribed stock, or partly in one way and partly in the other.

Arrangements for conversion.

(*e*) Any power of this section conferred on the Governor may be exercised from time to time, and he may alter any conditions as often as occasion shall require, provided that no contract or engagement previously entered into shall be prejudicially affected thereby.

Governor may exercise powers at any time.

30 Nothing in this Ordinance contained shall authorize an increase of the capital or of the annual charge on any loan, except:

Exchange of securities for inscribed stock.

(*a*) When securities exchanged for inscribed stock bear a higher rate of interest than the inscribed stock, an additional amount of inscribed stock may be created and issued to make up the difference in saleable value between the securities and the inscribed stock.

(*b*) In the case of the conversion of securities into inscribed stock, the Crown Agents shall issue such an amount of inscribed stock as may be required to defray the stamp duties and all other expenses incidental to the conversion.

31 The Crown Agents may from time to time, at the request of the Governor, make arrangements for all or any of the following things:

Creation, inscription, issue, conversion, and transfer of inscribed stock.

(1) For inscribing stock in their books.

(2) For managing the creation, inscription, and issue of inscribed stock.

(3) For effecting the conversion of loans into inscribed stock.

(4) For paying interest on inscribed stock, and managing transfers thereof.

(5) For issuing inscribed stock certificates to bearer, and as often as occasion shall require, re-issuing, or re-inscribing, stock, and re-issuing inscribed stock certificates.

Converted debentures to be cancelled.

32 The debentures issued under any of the Ordinances enumerated in the schedule to this Ordinance annexed, and exchanged or otherwise converted into inscribed stock, shall be forthwith cancelled by the Crown Agents, and transmitted to the Government of Ceylon.

Short title.

33 This Ordinance may be cited as "The General Loan and Inscribed Stock Ordinance, 1884," and shall commence and take effect from and after the passing thereof.

SCHEDULE.

Ordinance No. 1 of 1876,	Harbour Works,	4½	per cent.,	£200,000.
Ordinance No. 1 of 1881,	Harbour Works,	4	per cent.,	£200,000.
Ordinance No. 8 of 1877 Ordinance No. 12 of 1877 Ordinance No. 9 of 1878	Railway,	4	per cent.,	£1,275,000.
Ordinance No. 7 of 1879,	Waterworks,	4	per cent.,	£291,000.

17th November, 1884.

No. 20 of 1884.

An Ordinance to amend Ordinance No. 12 of 1862, entitled "An Ordinance for the Establishment of General Cemeteries."

(*See No. 12 of 1862.*)

Preamble.

WHEREAS it is expedient to amend Ordinance No. 12 of 1862, entitled "An Ordinance for the Establishment of General Cemeteries:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Cemeteries Amendment Ordinance, 1884."

Governor may exempt any cemetery from the provisions of section 11 of Ordinance No. 12 of 1862.

2 Notwithstanding the provisions of section 11 of "The Cemeteries Ordinance, 1862," which obliges every cemetery to be enclosed by substantial walls or iron railings, the Governor may exempt either wholly or in part any existing cemetery or any cemetery which may hereafter come into existence from the operation of such section, and may in like manner from time to time withdraw or renew such exemption, and the granting, withdrawal, or renewal of any such exemption shall be published in the *Government Gazette.*

Ordinance to be read as one with Ordinance No. 12 of 1862.

3 This Ordinance, except in so far as it is inconsistent therewith, shall be read and construed as one with the Ordinance No. 12 of 1862, entitled "An Ordinance for the Establishment of General Cemeteries."

17th November, 1884.

No. 22 of 1884.

An Ordinance to amend Ordinance No. 4 of 1882, entitled "An Ordinance relating to the emigration of Native Labourers from this Island under contract of Service."

(*See No. 4 of 1882.*)

WHEREAS it is expedient to amend Ordinance No. 4 of 1882, entitled "An Ordinance relating to the emigration of Native Labourers from this Island under contract of Service:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 Section 4 of Ordinance No. 4 of 1882, entitled "An Ordinance relating to the emigration of Native Labourers from this Island under contract of Service," is hereby amended, and the said section shall, from and after the passing of this Ordinance, be construed and read as if the words "in any place" had been inserted therein in lieu of the words "in any British or foreign colony," and as if, after the words "for the purpose of being employed under contract as a labourer" in such section, the words "except to a place to which emigration shall have been declared lawful" had been inserted. Amendment of section 4 of Ordinance No. 4 of 1882.

2 This Ordinance and Ordinance No. 4 of 1882, entitled "An Ordinance relating to the emigration of Native Labourers from this Island under contract of Service," shall be construed and read as one Ordinance. Ordinance to be read and construed with Ordinance No. 4 of 1882.

17th November, 1884.

No. 23 of 1884.

An Ordinance to remove doubts as to the Power of the Governor in or with the advice of the Executive Council to alter or repeal Rules or Regulations made under certain Ordinances.

WHEREAS by certain Ordinances passed in this colony power is given to the Governor "in Executive Council," or "to the Governor with the advice of the Executive Council," or "to the Governor with the advice and consent of the Executive Council," to make rules or regulations: And whereas doubts have arisen as to whether such power confers also the power to alter, amend, add to, or repeal any rules or regulations when so made: And whereas it is expedient to remove such doubts: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: Preamble.

Governor in or with the advice of the Executive Council may alter or repeal rules and regulations made under Ordinances.

1 Whenever by any law or Ordinance of this colony power is given to "the Governor in Executive Council," or to "the Governor with the advice of the Executive Council," or to "the Governor with the advice and consent of the Executive Council," to make any rules or regulations under such law or Ordinance, such power shall be deemed to include the power of altering, amending, adding to, or repealing any rules or regulations so made: Provided always that no alteration or amendment of, nor addition to, any such rules or regulations shall be contrary to the terms of the law or Ordinance under which any rule or regulation so altered, amended, or added to shall have been made.

17th November, 1884.

No. 24 of 1884.

An Ordinance to amend Ordinance No. 7 of 1853, entitled "An Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates.

(*See section 299 of "The Criminal Procedure Code, 1889.*")

Preamble

WHEREAS it is expedient to amend Ordinance No. 7 of 1853, entitled "An Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates," and to limit the period during which, in certain cases, insolvent debtors may be imprisoned: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Insolvent Estates Amendment Ordinance, 1884."

Construction of Ordinance.

2 This Ordinance shall, except in so far as it is inconsistent therewith, be construed as one with Ordinance No. 7 of 1853, entitled "An Ordinance for regulating the due Collection, Administration, and Distribution of Insolvent Estates," and which in this Ordinance is referred to as "the principal Ordinance."

Court may order release of insolvent, if in custody for debt contracted by fraud, &c., when detained for more than one year

3 After the first proviso to section 36 of the principal Ordinance the following shall be held to be, and is hereby inserted, "unless it shall appear to the satisfaction of the court that the insolvent shall at the time of this Ordinance coming into operation, or at any time thereafter, have been in prison or custody under or by reason of any such judgment, order, commitment, or sentence as aforesaid for a period of or exceeding one year."

Repeal of section 164 of the principal Ordinance.

4 Section 164 of the principal Ordinance is hereby repealed.

6 The provisions of the said section 36 of the principal Ordinance as by this Ordinance amended, and of section 37 of such Ordinance, shall hereafter be taken to apply and extend to Crown debtors, as if the Crown had been specially mentioned in such provisions of the said Ordinance.

25th November, 1884.

No. 27 of 1884.

An Ordinance to provide for the due protection of Wells and Artificial Pits in this Colony.

WHEREAS it is expedient to provide against accidents arising by reason of wells and artificial pits in this colony being insufficiently fenced round or otherwise protected: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

1 This Ordinance may be cited as "The Wells and Pits Protection Ordinance, 1884." **Short title.**

2 The expression "occupier" means the person in the actual occupation of the land on which any well or artificial pit may be, whether such person is or is not the proprietor of the land, and if there be no one in actual occupation of such land, then the proprietor of such land if in the colony, and if absent from the colony, then the duly authorized agent or attorney of such proprietor. **Interpretation clause.**

3 The occupier of any land within this colony on which there may now or at any time hereafter be any well or artificial pit shall, whether he shall have received any such notice as is provided for in section 9 of this Ordinance or not, and whether the said well or artificial pit be in use or abandoned, cause the said well or artificial pit to be securely fenced to the height of two and a half feet above the level of the ground, unless any such well or artificial pit shall be so securely fenced already. **Wells and pits to be fenced.**

4 All such fencing shall be maintained in an efficient state by the occupier of the premises for the time being. **Fences to be efficiently maintained.**

5 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time to make any rule or rules for each of the purposes hereinafter mentioned, and from time to time to add to, alter, amend, or abolish any rule or rules so made. **Governor and Executive Council may make rules under this Ordinance**

6 Any rule or rules so made, added to, altered, or amended shall be published, or if abolished notice thereof shall be given in the *Government Gazette*, and any such rule or rules shall come into operation, or shall stand abolished, as the case may be, on or from such date as shall be fixed by the Governor, with the advice of the Executive Council. **Rules made by Governor and Executive Council may be altered or amended.**

7 The purposes for which rules may be made as provided by sections 5 and 6 of this Ordinance are the following: **Purposes for which rules may be made.**

(*a*) The nature of the fencing to be erected round any well or artificial pit.

(*b*) The nature and extent of any repairs which may at any time be required to be made to such fencings.

(*c*) The time within which any such fencing or repairs is or are respectively to be erected or carried out.

Wells and Pits.

Governor may appoint inspectors of pits and wells

8 The Governor may appoint one or more persons to be inspectors of wells and pits, and such persons when so appointed shall have authority at all times to proceed to and inspect any well or pit wherever such well or pit may be situate; and every such inspector shall be deemed a public officer within the meaning of that term in the Ceylon Penal Code.

Inspector may order pits and wells to be fenced and fences repaired.

9 Should any such inspector at any time find that in his opinion any such well or pit is likely to be dangerous to life or limb, he shall in the first instance report such fact to the government agent or assistant government agent of the district wherein such well or pit may be, and if such government agent or assistant government agent shall after inquiry concur in the opinion of the inspector and notify his concurrence to the inspector, the inspector shall thereupon give notice in writing to the occupier of the land on which such well or pit may be to duly fence it within such time as such inspector may deem reasonable; and if in the opinion of such inspector any repairs are required to the fencing of any such well or pit, he shall give a similar notice to have such repairs completed by or before a certain date.

Occupiers failing to fence or repair when required to be subject to costs of the same being carried out.

10 Should any occupier upon whom any such notice shall have been served (and the posting of a notice to the usual place of abode of such occupier shall be *primâ facie* evidence that such notice reached such occupier) fail to erect such fencing or to make such repairs as shall be required by such notice, the same may be ordered to be done by the inspector, and the costs thereof and in connection therewith shall be recoverable from the occupier who was called upon to carry out the same, and who shall, whether called upon to pay any such costs or not, be nevertheless liable to such penalty as may be prescribed for the breach of any provision of, or any rule made under, this Ordinance.

When no proprietor found, fencing or repairs to be made and land sold after notice to pay costs

11 Should it not be possible to ascertain who is the proprietor of any land whereon a well or artificial pit may be required to be fenced, or the fencing thereof may be required to be repaired, it shall be lawful for an inspector under this Ordinance to cause the necessary fencing or repairs to be made, or to cause the well or artificial pit to be filled in, and by a notice to be published not less than three times in one of the English newspapers of this colony, with an interval of one week at least between each publication, to declare that unless the costs of such fencing or repairs or filling in be paid within a certain time by the proprietor of such land, which time shall be specified in such written notice, that the land on which such well or artificial pit may be will be seized, and such portion thereof as it may be necessary to sell to cover such costs, together with the costs of such seizure and of the sale hereinafter mentioned, shall be sold by public auction by the government agent or assistant government agent of the district in which such land is situated, who is hereby authorized to seize and sell the same.

Provided that should any balance remain in the hands of the government agent or assistant government agent after such expenses are satisfied, such balance may be paid to the late proprietor of the land on which such well or artificial pit may be, if claimed within two years from the time of the sale thereof.

Crown may purchase land sold under this Ordinance.

12 Whenever any immovable property is purchased under the provisions of this Ordinance, it shall be lawful for the government agent or assistant government agent selling any such property under this Ordinance to bid for and purchase the same on behalf of the Crown. A certificate substantially in the form A or B in the schedule to this Ordinance, as the case may be, signed by the government agent or assistant government agent, shall vest the property sold absolutely in the purchaser, or in the Crown if purchased on behalf of the Crown, free from all incumbrances, and such certificate shall be received in the courts of justice of this colony as conclusive evidence of the title of the purchaser to such immovable property.

Penalties for breaches of Ordinance or rules framed under it.

13 Every occupier who shall commit a breach of any obligation imposed by this Ordinance, or a breach of any rule proclaimed under the provisions of this Ordinance, shall be deemed guilty of an offence punishable by a fine which may extend to fifty rupees, or by imprisonment, with or without hard labour, which may extend to three months.

Occupiers feeling aggrieved at being required to erect or repair fence may appeal to the Governor in Executive Council

14 Any occupier who feels aggrieved with any requisition made upon him to fence or repair the fencing of any pit or well under this Ordinance may, within fourteen days of receiving such notice, appeal to the Governor in Executive Council, who shall determine whether such fencing or repairs should or should not be carried out.

Occupier may deduct cost of fence or repair thereof from rent, if due to proprietor, or may sue proprietor for amount

15 The cost of erecting any such fencing or carrying out any such repairs as is or are referred to in this Ordinance shall be borne in the first instance by the occupier, who shall be entitled to deduct the same from any rent that may be due from him to the proprietor of the land whereon such fencing or repairs is or are carried out, or to sue such proprietor for the same as money paid to his use.

Regulation No. 26 of 1822 repealed

16 "Regulation No. 26 of 1822, for obliging possessors of wells to raise the walls to a sufficient height to secure persons from danger of accidentally falling in," is hereby repealed: Provided that this repeal shall not affect the past operation of the said regulation, nor any penalty, forfeiture, or punishment incurred thereunder

This Ordinance not to affect section 80 of "The Police Ordinance, 1865."

17 Nothing in this Ordinance shall affect the provisions of section 80 of "The Police Ordinance, 1865," and any prosecution under that section may take place as if this Ordinance had not been passed: Provided that no person shall be convicted under such section and under this Ordinance on the same facts.

SCHEDULE A.

Whereas the sum of rupees ——— was due to our Sovereign Lady the Queen for the costs of fencing (*or* repairs to fencing *or* the filling in) of the (wells *or* pits, *as the case may be*), on the land ——— hereinafter more particularly mentioned and described, and a further sum of rupees ——— was likewise due for costs in connection with the same, which said sums have not been paid by the person liable therefor: And whereas the said land was seized in conformity with "The Wells and Pits Protection Ordinance, 1884," and sold also in conformity therewith on the ——— day of ———, and the same was purchased by (*here insert name of purchaser*) for the sum of rupees ———, which have been duly paid by the said ———:

Now know ye that I, ———, (Government Agent, *or* Assistant Government Agent, *as the case may be*), by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (*here describe the property with special accuracy as to boundaries*), has been sold to and purchased by the said ——— for the sum of rupees ———, which said sum has been duly paid as aforesaid, and that the said premises are and shall henceforward be vested in the said purchaser, his heirs, executors, administrators, and assigns free of all encumbrances.

Given under my hand at ———, this ——— day of ———, 18 —.

(Signed) ———
Government Agent.
(*Or* Assistant Government Agent.)

SCHEDULE B.

Whereas the sum of rupees ——— was due to our Sovereign Lady the Queen for the costs of fencing (*or* repairs to fencing *or* the filling in) of the (wells *or* pits, *as the case may be*), on the land ——— hereinafter more particularly mentioned and described, and a further sum of rupees ——— was likewise due for costs incurred in the seizure and sale of the said land: And whereas the said sums have not been paid by the person liable therefor, and whereas the aforesaid land was seized in conformity with "The Wells and Pits Protection Ordinance, 1884," and sold also in conformity therewith on the ——— day of ———, and the same was purchased by ——— for and on behalf of our Sovereign Lady the Queen for the sum of rupees ———, which has been duly credited to our said Lady the Queen in (part *or* full, *as the case may be*) satisfaction of the costs of (fencing *or* repairs to fencing *or* of the filling in) of the (wells *or* pits, *as the case may be*) aforesaid, and of the seizure and sale of the said land:

Now know ye that I, ———, (Government Agent, *or* Assistant Government Agent, *as the case may be*), by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (*here describe the property with special accuracy as to boundaries*), has been sold to and purchased by the said ——— for and on behalf of our said Lady the Queen for the sum of rupees ———, which said sum has been duly credited to our said Lady the Queen as aforesaid, and that the said premises are and shall henceforward be vested in our said Lady the Queen, her heirs and successors, free of all encumbrances.

Given under my hand at ———, this ——— day of ———, 18 —.

(Signed) ———
Government Agent.
(*Or* Assistant Government Agent.)

29th November, 1884.

No. 29 of 1884.

An Ordinance to amend "The Kandy Waterworks Loan Ordinance, 1884."

(*See No. 18 of 1884.*)

Preamble.

WHEREAS it is expedient to amend "The Kandy Waterworks Loan Ordinance, 1884:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Ordinance to be read as one with "The Kandy Waterworks Loan Ordinance, 1884."

1 This Ordinance, so far as is consistent with the tenor thereof, shall be read and construed as one with "The Kandy Waterworks Loan Ordinance, 1884," and in this Ordinance referred to as "the principal Ordinance."

Amendment of sections 5, 6, and 7 of "The Kandy Waterworks Loan Ordinance, 1884."

2 From and after the passing of this Ordinance—

(*a*) Section 5 of the principal Ordinance shall be read as if the words "within the limits of the municipality of Kandy as set forth and defined in the schedule to this Ordinance" were therein contained in lieu of the words "within the limits of the municipality of Kandy."

(*b*) Section 6 of the principal Ordinance shall be read as if the words "within the limits of the municipality of Kandy as set forth and defined in the schedule to this Ordinance" were therein contained in lieu of the words "within the municipality."

(*c*) Section 7 of the principal Ordinance shall be read as if the words "within the limits of the municipality of Kandy as set forth and defined in the schedule to this Ordinance" were therein contained in lieu of the words "within the municipal limits;"

and such sections are hereby amended accordingly.

SCHEDULE.

North-East.—A straight line from the first milepost on the Kaṭugastoṭa road to the old watch-hut at the junction of the road to Mr. Peiris's property and Malabar street.

East.—From the old watch-hut on Malabar street along Lady Longden's drive to the Ukuręssapiṭiya bridge.

South.—From the Ukuręssapiṭiya bridge along the municipal limits, as fixed prior to the Proclamation of twenty-seventh March, 1877, up to the crossing over the railway of the path to Falmouth Lodge.

West.—From the said railway crossing along the said path up to the Pérádeniya road, and thence in a straight line to the gap near the boundary of the Primrose Hill estate on the Haloluwa road.

North-West.—A straight line from the gap on the Haloluwa road to the Western Redoubt, and thence to the first milestone on the Kaṭugastoṭa road.

9th December, 1884.

No. 30 of 1884.

An Ordinance to amend Ordinance No. 11 of 1884, entitled "An Ordinance to authorize the Governor's Signature to Crown Grants to be attached by a Stamp."

(*See No. 11 of 1884.*)

Preamble.

WHEREAS it is expedient to amend Ordinance No. 11 of 1884, entitled "An Ordinance to authorize the Governor's Signature to Crown Grants to be attached by a Stamp:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Governor's signature to Crown grants when attached by stamp to be attested by private secretary or other officer.

1 Whenever the Governor shall, in virtue of the powers conferred upon him by section 1 of Ordinance No. 11 of 1884, cause his signature to be attached to any Crown grant of land by means of a stamp or facsimile of his sign manual, every such signature shall be so attached in the presence of the private secretary to the Governor, or of some other officer duly authorized by the Governor on that behalf, who shall certify on the face of such Crown grant that the Governor's signature was so attached in his presence.

Ordinance to be read as one with Ordinance No. 11 of 1884.

2 This Ordinance and Ordinance No. 11 of 1884 shall be read and construed as one Ordinance.

9th December, 1884.

No. 31 of 1884.

An Ordinance to amend Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Law relating to Public Thoroughfares in this Colony."

(*See No. 10 of 1861 and No. 18 of 1885.*)

Preamble.

WHEREAS it is expedient to amend Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Ordinance to be construed as one with Ordinance No. 10 of 1861.

1 This Ordinance, so far as is consistent with the tenor thereof, shall be construed as one with Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony," and in this Ordinance referred to as "the principal Ordinance."

Short title.

2 This Ordinance may be cited as "The Road Ordinance, 1861, Amendment Ordinance, 1884."

Division officer to prepare lists of those liable to labour on the roads.

3 Every division officer shall, from the lists mentioned in the 42nd section of the principal Ordinance, as well as from such other information as he may possess, compile and prepare in duplicate a return showing the name and age of every person in his division liable to perform labour on the

roads. Provided that it shall not be necessary for the division officer to ask the persons mentioned in such list who are liable to perform labour whether or not they elect to commute the same, anything in section 42 of the principal Ordinance to the contrary notwithstanding.

Returns to be prepared not later than twenty-first day of December in each year.

4 Such return shall be prepared not later than the twenty-first day of December in each year, and shall be published in each district on or before the thirty-first day of January in the following year, by affixing one of the duplicates or a copy thereof to such conspicuous place in the division as the chairman of the district road committee shall appoint.

Duplicate of return to be retained by chairman of district road committee

5 The other duplicate shall be furnished to and be retained by the chairman of the district road committee.

Publication of returns to constitute notice of liability to labour.

6 The return so prepared shall be signed by the division officer who shall have prepared the same, and, as soon as published in the manner provided for by section 4 of this Ordinance, shall constitute notice to every person named therein of his liability to perform labour; and the production of either of the duplicates shall be conclusive proof of such notice.

Chairman of district road committee may exempt from labour on ground of disease or bodily infirmity.

7 It shall be lawful for the chairman of the district road committee, upon proof to his satisfaction that any person resident within the district and liable to the performance of labour is either from disease or bodily infirmity incapable of performing labour, to exempt such person from the performance thereof either for life or for such period as the chairman of the district road committee may think fit.

Every person whose name appears on the returns liable to labour.

8 Every person whose name is inscribed in the returns referred to in section 4 of this Ordinance, and which shall not have been struck off therefrom by the chairman of the district road committee, shall be liable to labour on the roads, and the returns either before or after amendment, should any amendment to them be made, or any copy thereof certified to be a copy by the chairman, shall be final and conclusive evidence of the liability to labour of any person whose name shall appear thereon, unless, in case of a copy, it shall be proved to the district road committee that such list was not a true copy of the original.

Supplemental returns may be prepared.

9 A supplemental return, should such be found necessary, may be prepared in the same manner as the return mentioned in section 4 of this Ordinance: Provided that any such supplemental return shall be published not later than the thirtieth day of April in any year, and provided that such supplemental return shall not include any person who was not an inhabitant on the thirty-first March of that year.

Provisions of this or principal Ordinance relating to returns to apply to supplemental returns.

10 Upon any supplemental return being so published, all the provisions of this and the principal Ordinance relating to returns shall apply, so far as may be practicable, to any such supplemental return in the same manner as if such return had been prepared and published under section 4 of this Ordinance.

Performance of labour not to be required on Sundays, nor except during customary hours.

11 No person liable to perform labour shall be required to attend for the performance thereof on a Sunday, nor except during the customary hours of labour.

Persons not to be required to perform labour at greater distances from their residences than that fixed by Governor and Executive Council.

12 No person, except as hereinafter provided, shall be required to attend for the performance of labour on any principal thoroughfare nor on any minor thoroughfare which shall be at a greater distance from his residence than ten miles: Provided that the Governor, with the advice of the Executive Council, may from time to time vary the distance within the limit hereinbefore prescribed.

Notice of when and where to labour to be given to those who are liable to perform labour.

[*See § 1, 18 of 1885*]

13 Every division officer, on being directed so to do by the chairman of the district committee, shall give notice to the inhabitants of his division liable to perform labour, who shall not in the manner hereafter provided have commuted the same, to attend and perform such labour at the time and place appointed by the chairman of the district road committee, and such notice shall be given by publication by beat of tom-tom not less than seven days before the day appointed for the attendance of such inhabitants, and in such other way, if any, as the chairman of the district road committee shall direct. Provided that no such notice shall be given until the time during which a person is, under section 26 of this Ordinance, allowed to commute, shall have elapsed.

Persons failing to attend to perform labour liable to work for double the number of days such persons were originally liable.

14 Any person liable to perform labour, and who has not commuted in the manner hereinafter provided, who shall, without lawful excuse, the proof of which excuse shall lie on such person, fail to attend to perform labour at the time and place appointed for that purpose, or who shall fail to pay the amount of commutation money due by him as hereinafter provided, shall be liable, on receiving notice so to do, to labour on the thoroughfares or public tanks of the district in which such person's liability to work arose, for double the number of days for which such person was originally liable: Provided that the limitation as to distance prescribed by section 12 of this Ordinance shall not apply to persons required to perform double labour under this section, but if the distance of the place where such person is called upon to work under this section is greater than that mentioned in section 12 of this Ordinance, such person shall be provided with lodgings by the district road committee, and provided that any person who shall have become liable to the performance of the double labour under this section may commute such double labour in the manner hereinafter provided.

Persons guilty of misconduct while at labour liable to increased labour not exceeding three days for each offence.

15 If any person attending to perform labour due by him, whether it be labour for which he was originally liable, or the increased labour by reason of his having failed to attend in the first instance, shall, without lawful excuse, the proof of which excuse shall lie on such person, neglect or refuse to remain in attendance during the working hours, or who shall be guilty of any drunkenness, wilful neglect, or disobedience of the orders of the officer in charge of the work in which such person shall be employed, or of not

taking due care of the tools and implements entrusted to him, or of any other misconduct in the performance of the labour required of him, every such person shall, after inquiry and on adjudication, be liable to be condemned by the chairman of the district road committee to work for an extra number of days, not exceeding three days for any one of the above offences: Provided that the aggregate amount of punishment imposed upon any one person under the provisions of this section shall not exceed six days' labour.

Persons neglecting or refusing to perform double or additional labour to be arrested on warrant of chairman of district road committee.

16 Whenever any person fails after receiving notice to attend, or neglects or refuses to perform or abandons the performance of double labour under section 14, or additional labour under section 15 of this Ordinance, he shall be guilty of an offence, and be liable to the punishment provided by section 18 of this Ordinance, and the chairman of the road committee of the district in which such person is bound to labour is hereby empowered and required, unless such person be otherwise before him, to issue his warrant for the arrest of such person, which warrant shall be substantially in the form A of the schedule hereunto annexed.

Persons by whom any such warrant may be executed.

17 Every such warrant of arrest may be executed by the person or persons to whom it is addressed, or by any police officer, headman, fiscal, or fiscal's officer, and every such warrant shall be executable throughout the island without any endorsement, anything in the Ordinance No. 3 of 1883, entitled "An Ordinance for regulating the Procedure of the Courts of Criminal Judicature," to the contrary notwithstanding.

Person arrested to be taken before chairman of the district road committee, and, if found guilty, to be sentenced to imprisonment or to pay penalty.

18 Any person arrested under the provisions of this Ordinance shall be taken without delay before the chairman of the district road committee, according to the terms of the warrant, and the chairman before whom such person shall be brought shall inquire into the charge on which such person was arrested, and upon being satisfied that the party arrested is the person against whom the warrant was issued, and that the offence mentioned in such warrant was committed by such person, shall, and is hereby required, by warrant substantially in the form B of the schedule to this Ordinance, to commit such person to prison, there to be detained at hard labour for the period of one month: Provided that the chairman before whom any such person shall be brought may, in his discretion, in lieu of committing such person to prison, adjudge him to pay a penalty of ten rupees, and if such sum be paid forthwith, or within such time as the chairman may allow, such person shall not be committed to prison, but otherwise he shall, and the chairman may, if such person shall have been released prior to the payment of such fine when inflicted, issue, if necessary, a warrant for his arrest: Provided that from any decision of the chairman under this section there shall be no appeal.

Penalty to be credited to Government.

19 Any penalty so recovered shall forthwith be credited to Government, and be deemed and taken to be a payment to Her Majesty.

Warrant of arrest to be issued without any previous summons.

20 The warrant of arrest mentioned in the 16th section of this Ordinance shall be issued as a warrant of first instance, and it shall not be lawful for the chairman of the road committee of a province or the chairman of a district road committee to issue a summons or any other description of notice before issuing such warrant of arrest.

Register to be kept of warrants issued, &c.

21 A register shall be kept by the chairman of the district road committee in which shall be entered a list of all warrants issued under this Ordinance, the reasons for which such warrants were issued, and the punishment inflicted upon the offenders brought up in virtue of such warrants.

Persons condemned under this Ordinance to be sent to prison as ordinary prisoners.

22 Any person sentenced to imprisonment under the provisions of this Ordinance may be imprisoned in the prison of the district wherein he is condemned, in the same way as if he had been condemned under the authority of a court, justice of the peace, coroner, or deputy coroner, anything in the Ordinance No. 16 of 1877 to the contrary notwithstanding.

District road committee may pay subsistence money or provide food to persons performing labour under sections 14 or 15.

23 The district road committee shall, upon the application of any person performing double labour under section 14, or increased labour under section 15 of this Ordinance, or whenever such committee may consider it necessary to do so, provide such person for every day that he may labour with either subsistence money equal to one-half of the ordinary rate of a cooly's wages, as paid in the district in which such work shall be performed, or with food, according as such committee may deem best; and any person who shall receive subsistence money or food in virtue of this section shall, in addition to the labour for which he was otherwise liable, labour on such works as are mentioned in section 14 of this Ordinance for an extra number of days, exclusive of Sundays, equal to the number of days for which he was liable to double labour or increased labour: Provided that any person shall, during the time that he may be so at labour, be subject to the provisions of sections 14, 15, and 16 of this Ordinance in respect of any of the offences therein mentioned.

District road committee to determine questions of age, or rate of commutation, or distance.

24 If any person shall claim to be exempted from the performance of labour by reason that his age is less than eighteen years or exceeds fifty-five, or if at any time complaint shall be made that any person has been unduly exempted from labour on a like plea, or if any question shall be raised as to the rate of commutation which ought to be paid by any person for the labour due by him, or if any person shall refuse to labour upon any work upon the plea that the same is situated at a greater distance from the place where he resides than that prescribed, it shall be lawful for the chairman of the district road committee of the district to which any such person may belong to make such inquiry as he shall deem necessary, and to determine any such question; and the decision of such chairman shall be final.

Commutation.

25 It shall be lawful for any inhabitant to commute the performance of the labour due by him for any one year, except any double or increased labour to which he may have become liable under sections 14 and 15 of this Ordinance, by a money payment of such sum not exceeding two rupees, as the Governor, with the advice of the Executive Council, may from time to time fix in respect of the province or district in which such inhabitant resides: Provided that the rates of commutation hitherto paid under the principal Ordinance shall be levied until altered by Proclamation. And it shall be lawful for any person who shall have become liable to the performance of double labour under section 14 of this Ordinance to commute such double labour by the payment of double the amount of the rate of commutation leviable in that district at any time previous to the day on which such person shall have been notified to perform double labour.

Permission to commute.

26 Any person desiring to commute the performance of labour by a money payment shall pay the amount due by him on or before the twenty-eighth day of February in each year, and up to such date a person shall not be liable to the penalties provided by section 14 of this Ordinance.

Persons desiring to commute when to pay commutation money.

27 The amount due by any person as commutation money shall be paid to a division officer of the district to which the person liable to pay may belong, or to the chairman of the road committee of the said district, who shall grant a receipt therefor, and any money paid as such commutation money shall be deemed and taken to be a payment to Her Majesty.

Commutation money to be paid to division officer or to chairman of district road committee and to be deemed a payment to Her Majesty.

28 Every division officer shall grant a receipt upon a form issued by and bearing the stamp of the district road committee, and shall pay over all such sums received by him as division officer to the district committee at such times and in such manner as such committee shall direct, and all such sums shall forthwith be deposited in the kachchéri and shall be placed to the credit of the chairman of the district road committee, and the order of such chairman for the payment of any commutation money, together with the receipt of the party to whom the same is paid in pursuance thereof, shall be a full and sufficient authority and discharge for any such payment, and all such orders for payment as are mentioned in this or in the next preceding section shall be free of stamp duty.

Division officer to grant receipts for commutation moneys, and to deposit the same according to the instructions of the district road committee.

29 If any person, who shall have paid the amount due by him as commutation money under this or the principal Ordinance, shall deliver any receipt given to him by the division officer or by the chairman of the district road committee to any other person, in order that such last-mentioned person may make use of the same in proof of his having paid any sum of money due by him, or for any other fraudulent purpose; or if any person shall deceitfully make use of any receipt given to any other person by a division

Persons fraudulently making use of commutation receipts to be prosecuted.

officer or a chairman of a district road committee as a receipt given to him, such persons, or either of them, shall be guilty of an offence, and be liable to such punishments as the court before which they or either of them may be tried shall impose.

Provincial committee to forward yearly statements of accounts and recommendations for expenditure.

30 Every provincial committee shall, on or before the first day of August in every year, forward to the Colonial Secretary, for transmission to the Governor, a statement exhibiting the amount which the committee recommend should be expended during the ensuing year, together with a list of the roads, rivers, lakes, canals, resthouses, or other works on which the committee desire the said amount to be expended.

Governor may amend or alter such statements.

31 Subject to the enactment contained in section 32 of this Ordinance, the Governor may from time to time make any alteration or amendment in any such statement or list which may appear to him necessary, and propose such statements and lists or such amended statements and amended lists to the Legislative Council in the Ordinance providing for the contingent expenditure of the colony for the ensuing year.

If no statement sent in by provincial committee, Governor may prepare statements and submit same to Legislative Council.

32 In the event of any provincial committee failing to transmit such statement and list as hereinbefore mentioned on or before the first day of August, the Governor may, subject to the enactment contained in the next following section, make such statement and list as he shall consider necessary, and propose the same to the Legislative Council in the manner provided in the next preceding section of this Ordinance.

Amount of labour required for the performance of work, &c., to be stated in Ordinance to be passed for the purpose.

33 Whenever such statements and lists have been proposed by the Governor and approved by the Legislative Council, the amount of labour to be supplied for the performance of any works contained in such approved statements and lists shall be distinctly stated in the Ordinance enacted for the same, and shall in no case exceed two-thirds of the whole amount of labour due from the district or districts within which it may be required to be performed, less two-thirds of the necessary expenditure to be incurred in carrying out the provisions of this and the principal Ordinance.

Repealing clause.

34 Section 18 and sections 51 to 65, both inclusive, of the principal Ordinance, and the provisions of Ordinance No. 5 of 1866, entitled "An Ordinance to facilitate the recovery of Moneys due as Commutation of the Paddy Tax and of the Performance of Labour," in so far as they relate to the recovery of any amount due as commutation under the principal Ordinance or under this Ordinance, are hereby repealed; provided that such repeal shall not affect—

(*a*) The past operation of anything done or suffered under any enactment hereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(*d*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

35 This Ordinance shall not apply to nor operate within the limits of any town in which a municipality or a local board shall have been or may be hereafter established.

Ordinance not to operate within limits of municipalities or towns having local boards.

SCHEDULE A.

Warrant of Arrest under Section 16 of Ordinance No. 31 of 1884.

To (*name and designation of person or persons who is or are to execute the warrant*).

Whereas ———, of ———, is charged with the offence (*here state the offence in terms of sections 14 or 15, according to the facts, as the case may be*), in breach of section 16 of Ordinance No. 31 of 1884; you are hereby directed to arrest the said ——— and to produce him before me at ———.

Dated the ——— day of ———.

(Signed) ———

(Chairman of the Road Committee of the ——— Province,
or Chairman, District Road Committee.)

SCHEDULE B.

Warrant of Commitment on a Sentence under Section 18 of Ordinance No. 31 of 1884.

To the Fiscal of the ——— Province.

Whereas on the ——— day of ———, 18 —, (*name of prisoner*) was convicted before me (*name*, chairman of the road committee of the ——— Province, *or* chairman of the district road committee for the district of ———, *as the case may be*), of the offence of (*mention concisely the offence*), under section ——— of Ordinance No. 31 of 1884, and was sentenced to one month's imprisonment with hard labour:

This is to authorize and require you to receive the said (*prisoner's name*) into your custody in prison at ———, together with this warrant, and there to carry the aforesaid sentence into execution according to law.

Given under my hand this ——— day of ———, 18 —.

———

(*Signature and Official Designation.*)

17th December, 1884.

No. 32 of 1884.

(As amended by No. 12 of 1886.)

An Ordinance to provide for the issue of Government Paper Currency.

Preamble.

WHEREAS it is expedient to provide for the issue of Government paper currency in this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be called "The Ceylon Paper Currency Ordinance, 1884," and it shall extend to the whole of the colony of Ceylon.

Interpretation clause.

2 The expressions "Colonial Secretary," "Treasurer," and "Auditor-General" mean the persons for the time being lawfully discharging the functions of such officers, and the expression "the commissioners" means the commissioners of currency hereinafter created.

Commissioners of currency.

3 A board of commissioners of currency for the colony shall be established for the purposes of this Ordinance, and shall consist of the Colonial Secretary, the Treasurer, and the Auditor-General.

Board of commissioners created a corporation, under the style of "The Ceylon Currency Commissioners." [§ 3, 12 of 1886]

3 (1) The board of commissioners of currency so established shall be and become a corporation with continuance for ever, under the name and style of "The Ceylon Currency Commissioners," with full power and authority to have and to use a common seal, and change and alter the same at their will and pleasure, and shall and may perform each and every of the duties and exercise each and every of the powers imposed on and vested in them; and all acts, matters, or things which are authorized by the said Ordinance to be done by them or in their names shall and may be lawfully done by them or in their name and style as a corporation.

Proviso.

Provided, however, that the seal of the said corporation shall not be affixed to any instrument except in the presence of at least one of the commissioners, who shall sign his name to the instrument in token of his presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Corporation may appoint officers or agents. [§ 4, 12 of 1886]

(2) The said corporation, with the sanction of the Governor, may from time to time under their common seal appoint such officer or officers, agent or agents, as they may consider necessary for recovering all dividends, interest, or other revenue to be derived from all lawful investments already made, or which may hereafter be made by them, or for otherwise carrying out the provisions of this Ordinance; and all persons so appointed shall hold office during the pleasure of the said corporation.

Commissioners may issue Government notes.

4 There shall be transferred by the Colonial Treasurer to the commissioners coin legally current, or coin and securities as hereafter provided, and thereupon it shall be lawful for the commissioners from time to time to provide, issue, and re-issue promissory notes of the Government of Ceylon payable to bearer on demand equal to the whole amount of coin and securities in the hands of the commissioners.

Such notes shall be for the respective sums following, viz.:

Five rupees	Fifty rupees	Five hundred rupees
Ten rupees	One hundred rupees	One thousand rupees

5 Every such note shall bear the signatures or facsimiles of the signatures of any two of the commissioners holding office at the date borne on the note.

Notes to be signed by two commissioners.

6 Such notes shall be called "currency notes," and shall be payable only at the office of the commissioners, Colombo. The holders of currency notes shall be entitled to obtain on demand at the said office silver rupees of India in exchange for such notes, but no other coin.

Notes to be called "currency-notes," and holders may demand rupees for them.

7 Every currency note shall be legal tender for the amount expressed thereon in payment or on account of—

Notes to be legal tender.

(*a*) Any revenue or other claim to the amount of five rupees and multiples of five rupees, due to the Government of Ceylon;

(*b*) Any sum of five rupees and multiples of five rupees, due by the Government of Ceylon or by any body corporate or person in Ceylon.

8 From and after the thirty-first day of March, 1885, the Oriental Bank Corporation note issue for this colony which was in circulation on the morning of the third day of May, 1884, and which was guaranteed by the Government of this colony, shall cease to be recognized as equivalent to money by the Government of this colony, and the guarantee given by the Government as aforesaid shall at such period absolutely cease and determine, and any loss in respect of the said notes shall thereafter fall absolutely on the holder or holders of such note or notes: Provided, however, that nothing herein contained shall affect any claim to set-off which any debtor of the Oriental Bank Corporation may be entitled to in respect of any of the said notes.

Oriental Bank notes not to be received after the thirty-first day of March, 1885.

9 At any time after the fifteenth day of February, 1885, and until the aforesaid thirty-first day of March, 1885, the commissioners shall, on the demand of any body corporate or person other than the liquidator of the Oriental Bank Corporation or his agents, issue currency notes in exchange for the amount thereof in notes of the Oriental Bank Corporation: Provided, however, that no currency notes shall be so issued in respect of any note of the Oriental Bank Corporation that was not in circulation on the third day of May, 1884, and guaranteed as aforesaid. All payments made by the liquidator of the Oriental Bank Corporation on account of the guaranteed notes of the said corporation shall form part of the ordinary revenues of the colony, and such payments shall be devoted solely to the satisfaction and discharge of the notes guaranteed by the Government, or to the reduction of the loan raised for the redemption of these notes, or to a sinking fund for the repayment of the loan.

After the fifteenth day of February, 1885, commissioners to exchange Oriental Bank notes for Government notes.

Oriental Bank notes received under last section to be deposited in Treasury.

10 It shall be the duty of the commissioners to hand over all notes of the Oriental Bank Corporation received under the provisions of the preceding section to the proper authorities for verification and payment of dividends due thereon.

Commissioners to issue Government notes in exchange for silver coin.

11 From and after the first day of April, 1885, the commissioners shall, on the demand of any person, issue currency notes in exchange for the amount thereof in silver rupees of India.

Commissioners to retain a reserve of one-half in silver coin of the notes in circulation

12 The commissioners shall retain a reserve in silver coin of one-half at the least of the amount of currency notes in circulation. The said reserve shall be from time to time, at such times as the Governor shall appoint, verified by a board of survey.

Governor and Executive Council to direct investment of one-half of the value of notes in circulation.

13 The Governor, with the advice of the Executive Council, shall also cause a sum, not exceeding the value of one-half of the currency notes in circulation, to be invested in Indian Government securities, and such securities of the Government of the United Kingdom or of the Government of any British colony other than Ceylon, as may from time to time be approved of by the Secretary of State for the Colonies: Provided that not more than one-half of such sum shall be invested in Indian Government securities, except by the express sanction of the Secretary of State.

Reserve in silver to be set apart to satisfy notes.

14 The said reserve in silver coin and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said currency notes; and the said currency notes shall be held to have been issued on the security of the said coin and securities as well as on the general credit of the Government of Ceylon.

How investments to be made.

15 All such investments shall, if made in England, be made in the joint names of the Crown Agents for the Colonies and of such other officers or persons as Her Majesty's Secretary of State aforesaid shall appoint as trustees on behalf of the commissioners. Investments made in India in Indian Government securities shall be made in the names of the commissioners.

Investments may be sold or varied if directed by the Governor.

16 Any portion of the aforesaid investments may, if directed by the Governor, be sold by the persons in whose names they have been made, and the proceeds of such sale applied to keep up the aforesaid reserve of silver coin, or in the purchase of other securities authorized by this Ordinance.

When commissioners will be authorized to sell out securities.

17 If at any time the specie held by the commissioners as mentioned in section 12 should be reduced below one-half of the notes in circulation, it shall not be necessary for the commissioners (except by the special directions of the Governor) to sell and realize any of the said securities, unless and until the amount of specie in their hands shall be less than one-third of the notes in circulation at the time. Provided that no further investment in the said securities shall be made until the reserve mentioned in section 12 shall amount to one-half at the least of the amount of currency notes in circulation.

18 All dividends, interest, or other revenue to be derived from the said investments shall be paid to such person as shall be nominated in that behalf, and the said dividends, interest, or revenue shall form part of the ordinary revenues of the colony, excepting the sum of one per centum which shall be appropriated annually on the whole amount of such investments, and shall form a fund to cover any eventual risk of depreciation in value of the investments aforesaid, and which for all the purposes of this Ordinance shall be termed a "depreciation fund;" and such fund shall be payable to the commissioners, to be by them invested in such manner as the Governor shall, with the sanction of the said Secretary of State, approve: Provided always that the Governor may, with the sanction of the said Secretary of State, direct that the annual appropriations of one per centum aforesaid shall be wholly or partially discontinued at any time, or so long as it shall appear that the reason for such annual appropriation no longer exists.

How dividends and interest to be dealt with.

Depreciation fund.

19 An account showing the amount of the profits of the note circulation and of the charges and expenses incidental thereto shall be made and published annually in the *Government Gazette.*

Accounts showing expenses to be published annually in *Government Gazette.*

20 An abstract of the accounts of the commissioners showing—

(*a*) The whole amount of currency notes in circulation;

(*b*) The amount of silver coin reserved; and

(*c*) The nominal value as well as the latest known market price of, and the price paid for, the Government securities held by the commissioners—

shall be made up on the tenth day of each month by the commissioners, and published as soon as may be in the *Government Gazette.*

Account showing amount of notes in circulation, &c., to be published monthly in the *Government Gazette.*

21 Whosoever shall forge or counterfeit or alter, or shall offer, utter, dispose of, or put off, knowing the same to be forged or counterfeited or altered, any currency note or any word, figure, mark, sign, signature, or facsimile upon or attached to any such note, shall be held guilty of an offence, and shall on conviction be liable to imprisonment, with or without hard labour, for any period not exceeding twenty years, anything in the Ceylon Penal Code to the contrary notwithstanding.

Penalty for counterfeiting notes.

22 Whosoever without lawful authority or excuse (the proof whereof shall lie on the person accused) shall have in his possession any such forged, counterfeited, or altered note, or any unfinished or incomplete note purporting to be issued by the commissioners, shall be guilty of an offence, and be liable to imprisonment, with or without hard labour, for any period not exceeding five years, anything in the Ceylon Penal Code to the contrary notwithstanding.

Penalty for possession of incomplete notes.

Penalty for possession of paper for notes.

23 Whosoever without lawful authority or excuse (the proof whereof shall lie on the person accused) shall make, use, or knowingly have in his possession, any paper with any word, figure, device, or distinction peculiar to and appearing in the substance of the paper used for currency notes, or any frame, mould, or instrument for making such paper, or any material upon which the whole or any part of any note purporting to resemble a currency note shall have been engraved or made, or any facsimile of the signature of any of the commissioners, shall be guilty of an offence, and shall be liable on conviction to imprisonment, with or without hard labour, for any period not exceeding five years, anything in the Ceylon Penal Code to the contrary notwithstanding.

17th December, 1884.

No. 33 of 1884.

An Ordinance to authorize Municipal Councils and Local Boards of Health to provide for the Maintenance of Schools in which the English Language is taught.

(*See No. 7 of 1876 and No. 7 of 1887.*)

Preamble.

WHEREAS it is expedient to authorize municipal councils and local boards of health to pay from their funds the salaries of the teachers and such other expenses as may be necessary of the schools in which the English language is taught, specified in the schedule hereto annexed, and which a municipal council or local board of health may consider it advisable to maintain: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Ordinance to be read together with Ordinances Nos. 17 of 1865, 7 of 1876, and 16 of 1881.

1 The provisions of this Ordinance, so far as they are consistent with the tenor thereof, shall be construed and read with the Ordinances No. 17 of 1865, intituled "An Ordinance for establishing Municipal Councils in this Island," No. 7 of 1876, intituled "An Ordinance to provide for the establishment of Local Boards of Health and Improvement in certain Localities," and Ordinance No. 16 of 1881, intituled "An Ordinance to amend 'The Municipal Councils' Ordinance, 1865,' and for other purposes."

Municipal council or local board to defray expenses of schools.

2 Should any municipal council or local board of health consider it advisable to maintain any such school as is referred to in the preamble to this Ordinance, it shall be lawful for such municipal council or local board of health to pay the salaries of the teachers and the other necessary expenses of any such school, so long as such municipal council or local board shall deem it expedient to maintain such school, provided that such school be within the limits of the jurisdiction of such municipal council or local board

of health, anything in the Ordinance No. 17 of 1865, the Ordinance No. 7 of 1876, or the Ordinance No. 16 of 1881 to the contrary notwithstanding.

3 The expenses so to be paid by a municipal council or local board, whenever any school under this Ordinance is to be maintained by any municipal council or local board, shall be chargeable to the fund specified in chapter XII., section 52, of Ordinance No. 17 of 1865, or to local board funds.

Such expenses to be defrayed from local rates.

4 It shall only be lawful for a municipality or local board to maintain any school mentioned in the schedule to this Ordinance so long as such school is subject to the rules which may from time to time be in force for grant-in-aid schools, and so long only as a Government inspector shall certify to the Colonial Secretary that the school is under the immediate control of the municipality or local board and is being efficiently and economically conducted. Provided that should a Government inspector certify to the contrary, or should any such school cease to be subject to the rules from time to time in force for grant-in-aid schools, such fact shall be communicated by the Colonial Secretary to the municipality or local board, when the school with regard to which such information is given shall cease to be maintained from municipal or local board funds.

Power to raise rates for such purpose.

SCHEDULE.

Colombo Boys'	Galle Central
Grandpass Boys'	Galle Lower Central
Maradána Boys'	Galle Girls'
Female Seminary	Gampola Boys'
Do. (Infant School)	Badulla Boys'
Colombo Girls'	Badulla Girls'
Pettah Infant	Puttalam Boys'
Kalutara Boys'	Puttalam Girls'

17th December, 1884.

No. 36 of 1884.

An Ordinance to further provide for the trial of certain Offences subsequent to the time at which "The Criminal Procedure Code, 1883," shall come into operation.

WHEREAS it is expedient to make further provision for the trial of certain offences subsequent to the time at which "The Criminal Procedure Code, 1883," hereinafter called "the principal Ordinance," shall come into operation: Be it therefore enacted by the Governor of Ceylon, by and with the advice of the Legislative Council thereof, as follows:

Preamble.

Repeal of laws, &c., by "Criminal Procedure Code, 1883," not to affect offences committed under them.

1 The repeal of any law, Ordinance, or rule of court by the principal Ordinance shall not affect—

(*a*) The past operation of any enactment, law, Ordinance, or rule of court thereby repealed, nor anything duly done or suffered under any law, Ordinance, or rule of court thereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any law, Ordinance, or rule of court thereby repealed; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law, Ordinance, or rule of court thereby repealed; nor

(*d*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid, and any such investigation, legal proceeding, and remedy may be carried on as if any such law, Ordinance, or rule of court had not been repealed, anything in section 511 of the said principal Ordinance to the contrary notwithstanding.

Entry on unsustainable charge.

Effect of entry.

2 In trials before the Supreme Court, when it appears to the Supreme Court at any time before the commencement of the trial of the person charged that any charge or any portion thereof is clearly unsustainable, the judge may make on the charge an entry to that effect. Such entry shall have the effect of staying proceedings upon the charge or portion of the charge, as the case may be.

This Ordinance and Ordinance No 3 of 1883 to be read as one Ordinance.

3 This Ordinance and the principal Ordinance shall be construed and read as one Ordinance, and this Ordinance shall come into operation together with the principal Ordinance.

19th December, 1884.

No. 39 of 1884.*

An Ordinance to re-adjust the Customs Duties leviable under Ordinances No. 17 of 1869 and No. 14 of 1871.

(*See No. 17 of 1869 and No. 11 of 1891.*)

Preamble.

WHEREAS it is expedient to re-adjust the customs duties leviable under Ordinances No. 17 of 1869 and No. 14 of 1871, and to levy duties on certain articles heretofore exempted from duty: Be it therefore enacted by the Governor of Ceylon, by and with the advice of the Legislative Council thereof, as follows:

* Ordinance No. 22 of 1873 has been repealed by No. 12 of 1891, and the provisions of this Ordinance which referred to it have been omitted as impliedly repealed by No. 5 of 1892.

Customs Duties.

1 This Ordinance and the schedule A hereunto annexed, in so far as they are consistent therewith, shall be construed and read as one Ordinance with the Ordinances No. 17 of 1869 and No. 14 of 1871.

Ordinance and schedule A to be read with Ordinances No. 17 of 1869 and No 14 of 1871.

2 From and after the time when this Ordinance shall come into operation, the several duties of customs, as the same are respectively inserted, described, and set forth in the schedule A hereunto annexed, shall be levied and paid upon all the goods, wares, and merchandise in the said schedule mentioned when imported into this colony, anything in the aforesaid Ordinances No. 17 of 1869 and No. 14 of 1871 to the contrary notwithstanding, subject nevertheless to the exemption in the said schedule appearing.

Customs duties on goods, &c., to be levied according to schedule A to this Ordinance.

4 From and after the passing of this Ordinance all methylated spirits imported into this island shall be subject and liable to an *ad valorem* duty, anything in the Ordinances No. 17 of 1869 and No. 14 of 1871 to the contrary notwithstanding.

Methylated spirits to pay an *ad valorem* duty.

5 Section 12 of Ordinance No. 22 of 1873 and the schedule to such Ordinance, Ordinance No. 18 of 1877, Ordinance No. 12 of 1879, and Ordinance No. 14 of 1884 are hereby repealed: Provided that such repeal shall not affect any duties or arrears of duties which shall be due or payable at the date when this Ordinance shall have come into operation.

Repeal of Ordinances.

6 Nothing in this Ordinance contained shall affect any articles declared to be exempt from duty by Ordinance No. 5 of 1884.

Ordinances not to affect articles free from duty under Ordinance No. 5 of 1884.

7 This Ordinance shall come into operation on the first day of January, 1885.

Date of Ordinance coming into operation.

SCHEDULE A.

		Rs. c.
Arms and ammunition :—		
Gunpowder for guns	... ... per lb.	0 25
Gunpowder for blasting	... ... "	0 8
Pistols, single-barrelled	... ... each	2 25
Pistols, double-barrelled, and revolvers	... "	4 50
Shot ...	... ... per cwt.	0 75
Opium ...	... ... per lb.	1 0
Poonac ...	... ... per cwt.	0 25
Sugar:—		
Candy and refined	... ... "	3 0
Unrefined ...	... ... "	1 75
Palm and jaggery	... ... "	0 75
Wines in bottles, except claret and ginger, sparkling	per gallon	2 50
Other wines ...	... ... "	1 50
Wines in wood, except claret	... ... "	1 0

Goods, including methylated spirits, at present paying 5 per cent. *ad valorem* duty, shall pay 6½ per cent., except cotton goods, the duty on which shall remain untouched.

Tolls.

An *ad valorem* duty of 6½ per cent. shall be charged on the following articles :

Acid	Ground nuts
Beeswax	Images and statuettes
Blacking	Musical instruments
Boats and canoes	Mats
Bran	Palmirah, rush, and rattan matting
Brimstone	Oils, linseed and vegetable
Brushes	Pitch and tar
Candles	Sago
Cutch	Stationery, excluding paper and envelopes
Fullersearth	

Exemption :—Tea lead.

19th December, 1884.

No. 41 of 1884.

An Ordinance to establish further Tolls and to discontinue certain Tolls.

(*See No. 14 of 1867.*)

Preamble.

WHEREAS it is expedient to establish the tolls hereinafter specified, and to discontinue the tolls hereinafter specified : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Establishment of certain tolls.

1 From and after the first day of January, 1885, tolls shall be established on and in respect of the following roads, viz.:

Western Province.

On the road from Warakápola to Ruwanwella at Meyadandupola.

Central Province.

On the Dimbula road at or near the gap between Kotmalé and Dimbula.

On the road from Náwalapitiya to Kandy, within one mile of the Náwalapitiya railway station.

Discontinuance of certain tolls.

2 From and after the first day of January, 1885, the levy of tolls hitherto established in respect of the following roads shall be discontinued, viz.:

Eastern Province.

On the road from Kalmunai to Nindúr between the 27th and 28th mileposts.

On the road from Samanturai to Malkampiddi between the 30th and 31st mileposts.

22nd December, 1884.

No. 1 of 1885.

An Ordinance to provide for the preservation of copies of Books printed in Ceylon, and for the Registration of such Books.

WHEREAS it is expedient to provide for the preservation of three copies of every book printed or lithographed in Ceylon, and for the registration of such books: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 In this Ordinance, unless the context otherwise requires, the term "book" includes every volume, part or division of a volume, and pamphlet, in any language, and every sheet of music, map, chart, or plan separately printed or lithographed; but shall not include any publication which consists merely of a price list, sale catalogue, annual report, trade circular, or trade advertisement.

Interpretation clause.

2 Three printed or lithographed copies of the whole of every book which shall be printed or lithographed in this colony after this Ordinance shall come into force, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be produced, and also of any second or subsequent edition which shall be so produced with any additions or alterations, whether the same shall be in letterpress or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been produced before or after this Ordinance shall come into force, shall, within one calendar month after the day in which any such book shall first be delivered out of the press, and notwithstanding any agreement (if the book be published) between the printer and publisher thereof, be delivered free of any charge, claim, or demand whatsoever by the printer, bound, sewed, or stitched together, and upon the best paper on which the same shall be printed or lithographed, at such place and to such officer as the Governor, with the advice of the Executive Council, shall, by notification in the *Government Gazette*, from time to time direct. The publisher or other person employing the printer shall, at a reasonable time before the expiration of the said month, supply him with all maps, prints, and engravings, finished and coloured as aforesaid, which may be necessary to enable him to comply with the requirements aforesaid.

Three copies of books printed after this Ordinance comes into force, and of all subsequent editions, to be delivered to Government within a month of being printed.

3 Such officer shall thereupon give a receipt in writing for the copies so received.

Receipt for copies.

4 One of such copies shall be transmitted to the Secretary of State for the Colonies, another copy shall be disposed of as the Governor, with the advice of the Executive Council, shall from time to time, by general or special order, direct,

Disposal of the three copies.

and the remaining copy shall, after a memorandum containing the particulars hereinafter mentioned respecting the book shall have been registered as hereinafter provided, be deposited in such public library, or be otherwise disposed of, as the Governor shall from time to time determine.

Registration of memoranda of books.

5 There shall be kept at such office, and by such officer, as the Governor, with the advice of the Executive Council, shall appoint in this behalf, a book to be called "A Catalogue of Books printed in Ceylon," wherein shall be registered a memorandum of every book which shall have been delivered pursuant to section 2 of this Ordinance. Such memorandum shall (so far as may be practicable) contain the following particulars (that is to say):

(1) The title of the book and the contents of the title page, with a translation into English of such title and contents, when the same are not in the English language;

(2) The language in which the book is written;

(3) The name of the author, translator, or editor of the book or any part thereof;

(4) The subject;

(5) The place of printing and the place of publication;

(6) The name or firm of the printer and the name or firm of the publisher;

(7) The date of issue from the press or of the publication;

(8) The number of sheets, leaves, or pages;

(9) The size;

(10) The first, second, or other number of the edition;

(11) The number of copies of which the edition consists;

(12) Whether the book is printed or lithographed;

(13) The price at which the book is sold to the public; and

(14) The name and residence of the proprietor of the copyright or of any portion of such copyright.

Such memorandum shall be made and registered in the case of each book as soon as practicable after the delivery of the copies thereof in manner aforesaid.

Publication of memoranda registered.

6 The memoranda registered during each quarter in the said catalogue shall be published in the *Government Gazette* as soon as may be after the end of such quarter, and a copy of the memoranda so published shall be sent to the said Secretary of State for the Colonies.

Penalty for non-delivery of books by printer.

7 Every printer who neglects to deliver three copies of any such book as is referred to in section 2 of this Ordinance, or of any second or subsequent edition of any such book, to the officer and in the manner hereinbefore prescribed, commits an offence punishable by a fine not exceeding fifty rupees.

8 Every publisher or other person employing any such printer who neglects to supply him in manner aforesaid with maps, prints, or engravings finished and coloured as aforesaid, which may be necessary to enable such printer to comply with the provisions of the said section, commits an offence punishable by a fine not exceeding fifty rupees.

Penalty for non-supply of books by publisher.

9 All pecuniary penalties imposed under this Ordinance may be recovered in the manner prescribed by "The Criminal Procedure Code, 1883."

Mode of recovering penalties.

10 The Governor, with the advice of the Executive Council, shall have power to make such rules as may be necessary or desirable for carrying out the objects of this Ordinance, and from time to time to repeal, alter, and add to such rules. All such rules and all repeals and alterations thereof and additions thereto shall be published in the *Government Gazette.*

Power of Governor in Executive Council to make rules.

11 The Governor, with the advice of the Executive Council, may, by notification in the *Government Gazette*, exclude any class of books from the operation of the whole or any part or parts of this Ordinance.

Power of Governor in Executive Council to exclude any class of books from operation of this Ordinance.

12 This Ordinance shall come into operation on the first day of April, 1885.

Commencement of Ordinance.

27th January, 1885.

No. 2 of 1885.

An Ordinance to empower the Governor and Executive Council to add to, reduce, or alter the limits of any established General Cemetery.

(*See No. 12 of 1862.*)

Preamble.

WHEREAS under the provisions of "The Cemeteries Ordinance, 1862," the Governor, with the advice and consent of the Executive Council, is empowered by Proclamation to establish a general cemetery within such limits as shall be specified and defined in such Proclamation:

And whereas no express authority has been given by the said Ordinance to the Governor, with the like advice and consent, to add to or reduce or alter the limits of a general cemetery when so established, and doubts have arisen how far authority exists for such purposes, and it is desirable and expedient that such doubts should be removed: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Construction and short title of Ordinance.

1 This Ordinance and "The Cemeteries Ordinance, 1862," hereinafter called "the principal Ordinance," and Ordinance No. 20 of 1884, shall be construed and read as one Ordinance, and this Ordinance may be cited as "The Cemeteries Ordinance Amendment Ordinance, 1885."

Governor and Executive Council may add to, reduce, or alter limits of general cemeteries established under Ordinance No. 12 of 1862.

2 It shall be lawful for the Governor, with the advice and consent of the Executive Council, from time to time to add to or to reduce or otherwise alter the limits of any general cemetery established under the principal Ordinance, provided that any such additions, reductions, or alterations, as the case may be, shall be proclaimed, specified, and defined, and in all respects dealt with in the same manner as is directed to be done by the principal Ordinance as regards the original limits of any general cemetery established under it.

28th January, 1885.

No. 3 of 1885.

An Ordinance to raise a Loan of Sixty Thousand Pounds sterling for the completion of the Colombo Harbour Works.

Preamble.

WHEREAS it is expedient to raise a loan not exceeding sixty thousand pounds sterling, British currency, for the completion of the Colombo harbour works: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Ordinance to be read as one with Ordinance No. 19 of 1884.

1 This Ordinance and Ordinance No. 19 of 1884, intituled "An Ordinance to declare the terms and conditions applicable to loans authorized to be raised by the Government of Ceylon, and to provide for the creation of Ceylon Inscribed Stock," shall be construed and read as one Ordinance.

Authority to Governor to borrow sixty thousand pounds sterling by sale of debentures, &c.

2 The Governor is hereby authorized to borrow, at any time within twelve months from the passing of this Ordinance, a sum not exceeding sixty thousand pounds sterling, British money, by the sale of debentures or by the sale of inscribed stock, or partly by the sale of debentures and partly by the sale of inscribed stock, under the provisions of "The General Loan and Inscribed Stock Ordinance, 1884."

Proceeds arising from loan to be applied to the completion of breakwater.

3 The proceeds arising from such loan shall be applied to the construction and completion of the Colombo harbour works.

Contributions to sinking fund to commence from the date on which interest on debentures or inscribed stock shall run.

4 The contributions to the sinking fund as contemplated in sections 10 and 24 of "The General Loan and Inscribed Stock Ordinance, 1884," for the repayment of the said sum of sixty thousand pounds sterling, British money, hereby authorized to be borrowed, shall commence from the date on which the interest on the debentures or inscribed stock to be created under this Ordinance shall run.

28th January, 1885.

No. 4 of 1885.

An Ordinance to raise a Loan of Forty Thousand Pounds sterling for the completion of the Colombo Waterworks.

WHEREAS it is expedient to raise a loan not exceeding forty thousand pounds sterling, British currency, for the completion of the Colombo waterworks : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows : **Preamble.**

1 This Ordinance and Ordinance No. 19 of 1884, intituled "An Ordinance to declare the terms and conditions applicable to Loans authorized to be raised by the Government of Ceylon, and to provide for the creation of Ceylon Inscribed Stock," shall be construed and read as one Ordinance. **Ordinance to be read as one with Ordinance No. 19 of 1884.**

2 The Governor is hereby authorized to borrow, at any time within twelve months from the passing of this Ordinance, a sum not exceeding forty thousand pounds sterling, British money, by the sale of debentures or by the sale of inscribed stock, or partly by the sale of debentures and partly by the sale of inscribed stock, under the provisions of "The General Loan and Inscribed Stock Ordinance, 1884." **Authority to Governor to borrow forty thousand pounds sterling by sale of debentures, &c.**

3 The proceeds arising from such loan shall be applied to the construction and completion of the Colombo waterworks. **Proceeds arising from loan to be applied to the completion of the Colombo waterworks.**

4 The contributions to the sinking fund as contemplated in sections 10 and 24 of "The General Loan and Inscribed Stock Ordinance, 1884," for the repayment of the said sum of forty thousand pounds sterling, British money, hereby authorized to be borrowed, shall commence from the first day of November, one thousand eight hundred and eighty-eight. **Contributions to sinking fund to commence from the first day of November, 1888.**

28th January, 1885.

No. 6 of 1885.

An Ordinance to enable the Bishop, Clergy, and Laity of the Church of England in Ceylon to provide for the regulation of the affairs of the said Church.

(See No. 32 of 1890 and No. 24 of 1892.)

WHEREAS by the Ordinance No. 14 of 1881, intituled "An Ordinance to amend the Ordinance No. 1 of 1870, intituled 'An Ordinance relating to the Fixed Civil Establishments of this Colony,'" the salaries and allowances payable to the Bishop and other ecclesiastical persons of the Church of England, out of the Colonial Treasury, have been prospectively abolished, and provision has been made for payment from time to time to trustees for the use of the **Preamble**

said church until the first day of July, 1886, of the salaries and allowances payable in respect of offices which may become vacant before that date:

And whereas, in consequence of the prospective withdrawal of all State grants to the said church, it has been decided that all the right, title, interest, powers, and control of the Government held and exercised in and over all churches, the salaries and allowances in respect of which have been prospectively withdrawn, shall be transferred to trustees, save and except the right, title, and interest in the two churches hereinafter mentioned, subject nevertheless in all respects to the same uses, conditions, and limitations and for the same purposes as the same are now held and exercised by the said Government:

And whereas by Ordinance No. 15 of 1881, entitled "An Ordinance for the appointment of Incorporated Trustees of the Church of England in Ceylon," all the right, title, interest, powers, and control held and exercised by the Government in and over all churches, the salaries and allowances in respect of which had been prospectively withdrawn (save and except as regards the churches of St. Peter, Colombo, and St. Paul, Kandy) were transferred to certain trustees and their successors as a body corporate, pending the appointment of a governing body, to represent the said churches: And whereas it is expedient to repeal the said Ordinance No. 15 of 1881, and to make other provisions in lieu thereof, and to enable the Bishop, clergy, and the laity of the Church of England to make such arrangements for the management of their ecclesiastical property and affairs as they may think fit and necessary:

Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Repeal of Ordinance No. 15 of 1881.

1 Ordinance No. 15 of 1881, entitled "An Ordinance for the appointment of Incorporated Trustees of the Church of England in Ceylon," is hereby repealed.

Authorization for Bishop, clergy, and laity of Church of England to hold synods.

2 From and after the time when this Ordinance shall come into operation, it shall be lawful for the Bishop, clergy, and laity, being members of the Church of England in the diocese of Colombo, to hold synods, assemblies, or conventions at such places, in such manner, and for such purposes in connection with their ecclesiastical affairs as to them shall seem fit, and to make and enforce regulations in connection therewith, which shall be binding upon such persons as have either directly or indirectly assented thereto: Provided that nothing herein contained shall authorize the imposition of any rate or tax upon any person or persons whomsoever, whether belonging to the said church or not, nor the infliction of any temporal punishment, fine, or penalty upon any person other than his suspension or removal from an office or privilege in or under the control of the said synod, assembly, or convention, or the making of any rule or regulation contrary to the law of the colony. Provided that nothing be

done at variance with the doctrine and discipline of the Church of England, or that will sever this diocese of Colombo from the said church, and that any alteration which shall by mistake or otherwise effect such severance as aforesaid shall be null and void.

3 It shall be lawful for the Bishop of Colombo, or his representative duly constituted, to fix the time and place for holding the first synod, assembly, or convention.

Bishop to fix time and place of first synod.

4 The first synod, assembly, or convention shall consist of the Bishop, the clergy of the Church of England being in priests' orders, and the representatives of the laity.

Synod, assembly, or convention to consist of Bishop, licensed priests, and representatives of the laity.

5 All baptized laymen of twenty-one years of age and upwards, who shall subscribe to a declaration substantially in the form given in the schedule A hereunto annexed, shall, subject to the provisions of section 6 of this Ordinance, have the right of voting at the election of representatives to the first synod, assembly, or convention upon being registered so to vote by the proper authority accordingly.

Baptized laymen of twenty-one years of age and subscribing to declaration to vote for representatives of laity.

6 At the first synod, assembly, or convention the laity shall be represented by one representative for every congregation or group of congregations according to the number of members thereof, there being one representative where the persons of over fifteen years of age forming a congregation or group of congregations number over fifty and under one hundred and fifty; two, where they number over one hundred and fifty and under three hundred; three, where they number over three hundred and under six hundred; four, where the number is above six hundred: Provided that no congregation or group of congregations shall have more than four representatives. Every representative shall, before performing the duties of such, subscribe to a declaration according to the form contained in schedule B to this Ordinance.

How laity to be represented.

7 And after the first meeting, the synod, assembly, or convention shall have the power of determining the time when and place where its subsequent meetings shall be held, and the qualifications necessary to entitle the clerical and lay members of the Church of England to vote thereat.

First synod to determine when subsequent synod to be held.

8 It shall be in the power of such synod, assembly, or convention, having met as described above, afterwards to alter its constitution in any way, provided that no such change be made except with the consent of the Bishop of Colombo for the time being, and also of two-thirds of the whole order of clergy, and two-thirds of the whole order of lay representatives as above described, and provided that nothing be done at variance with the doctrine and discipline of the Church of England, or that will sever this diocese of Colombo from the said church; and that any alteration which shall by mistake or otherwise effect such severance as aforesaid shall be null and void.

Synod may, subject to certain conditions, change its constitution.

9 It shall be lawful for the first or any subsequent synod, assembly, or convention, held under the authority of this Ordinance, by any Statute, Ordinance, or resolution to be passed for such purpose, to nominate any number of persons,

First synod to appoint incorporated trustees.

[§ 1, 32 of 1890] *not less than five*, being members of the Church of England, to act as a corporation for the purposes hereinafter mentioned, and upon such Statute, Ordinance, or resolution being recorded in the Registry of the Supreme Court, such persons and their successors, to be appointed as hereinafter provided for, shall become a corporation, with continuance for ever, under the style of "The Incorporated Trustees of the Church of England in Ceylon," with full power and authority to have and use a common seal, and as trustees for the said church to receive, take, hold, or otherwise dispose of all descriptions of property, both real and personal, and shall and may be able and capable in the law to sue and be sued, answer and be answered, in any court or courts or elsewhere, in all actions or causes whatsoever for, touching, or concerning the same :

Incorporated trustees.

[§ 1, 32 of 1890]

Provided that the seal of the said corporation shall not be affixed to any instrument except in the presence of three at least of the members of such corporation, who shall sign their names to the instrument in token of their presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Provided always that the change, succession, and removal of the members of the said corporation and the constitution and government thereof, and the beneficial uses and disposal of the property to be held in trust by them as aforesaid, shall be regulated, decided, and declared from time to time by the said synod, assembly, or convention, and shall be made subject to such regulations as may from time to time be made thereby in virtue of the powers conferred by this Ordinance.

Right, title, interest, power, and control over all churches with appurtenances to be absolutely vested in incorporated trustees of the Church of England.

10 All the right, title, interest, powers, and control in and over all churches with their appurtenances (save and except the churches of St. Peter, Colombo, and St. Paul, Kandy) which by Ordinance No. 15 of 1881 were proposed to be transferred to "The Incorporated Trustees of the Church of England," as referred to in that Ordinance, shall, upon such a body corporate as is referred to in this Ordinance coming into existence, forthwith become absolutely vested in such body corporate, as well as any other property which may in any manner or at any time hereafter devolve upon the said trustees in their capacity of the incorporated trustees of the Church of England.

Provisions for vesting of property of Church of England pending appointment of incorporated trustees.

11 Until the first of such synods, assemblies, or conventions, as are referred to in the previous provisions of this Ordinance, shall have appointed the incorporated trustees of the Church of England in Ceylon, in terms of section 9 of this Ordinance, the properties, rights, and powers to be vested in the said incorporated trustees of the Church of England in Ceylon as hereinbefore provided shall, in the meantime, be vested as follows :

(*a*) Relating to churches or congregations having trustees lawfully appointed thereto : in such trustees ;

(*b*) Relating to the churches of Kelaniya and Kohilawatta : in the trustees of St. Thomas's College, Colombo ;

(*c*) Relating to the churches of Mannár and Kalpiṭiya: in the Bishop of Colombo; and

(*d*) Relating to any other churches than those mentioned in sub-sections (*a*), (*b*), and (*c*): in the Bishop of Colombo.

Provided, however, that nothing herein contained shall prevent or delay such properties, rights, and powers vesting in the incorporated trustees of the Church of England in Ceylon so soon as they shall have been appointed. And provided that no right, title, interest, power, and control which by Ordinance No. 12 of 1846 is or may hereafter be vested in trustees appointed thereunder, save and except such right, title, interest, power, and control as by Ordinance 15 of 1881 it was purported to convey to the incorporated trustees as therein bound, nor any right, title, interest, power, and control which by any deed or other instrument is or may hereafter be vested in the Bishop of Colombo, or his successors, or in any other trustees, for the benefit of the said church, shall vest in such incorporated trustees of the Church of England in Ceylon.

Death, retirement, or removal.

12 It shall be lawful for the said synod, assembly, or convention to make provision for the appointment and resignation of bishops, and to admit any persons to be bishops of Colombo, and when vacancies in the See occur, generally to regulate their tenure of office and their retirement or removal therefrom, and the persons so admitted shall be bishops of Colombo for the purpose of this Ordinance, Ordinance 11 of 1842, Ordinance 14 of 1881, and of Ordinance 12 of 1846, and shall be successors of the present Bishop of Colombo in all trusts now vested in the Bishop of Colombo and his successors. Provided always that nothing be done at variance with the rights of the Bishop of Calcutta, and provided that nothing be done at variance with the faith, doctrine, and discipline of the Church of England.

Ordinance not to come into operation until notified by Proclamation.

13 This Ordinance shall not come into operation unless and until the Governor notifies by Proclamation that it is Her Majesty's pleasure not to disallow the same, and thereafter it shall come into operation upon such day as the Governor shall notify by the same or any other Proclamation.

SCHEDULE A.

I, ———, do hereby solemnly declare that I am a member of the Church of England, and that I have for three calendar months last past been an accustomed member of the congregation of ———, and that I am not registered as an elector of any other congregation.

SCHEDULE B.

I, ———, of ———, do solemnly declare that I am a member of the Church of England and a communicant of the said church.

14th February, 1885.

No. 8 of 1885.

An Ordinance to exempt certain Articles from the levy of Customs Duties.

(*See No. 17 of 1869.*)

Preamble.

WHEREAS it is expedient to amend in certain respects the Ordinances No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon," No. 14 of 1871, intituled "An Ordinance to adjust Customs Duties to the Currency of Rupees and Cents," and No. 39 of 1884, intituled "An Ordinance to re-adjust the Customs Duties leviable under Ordinances No. 17 of 1869 and No. 14 of 1871:" Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Exemption from duties on goods mentioned in schedule.

1 From and after the time when this Ordinance shall come into operation, the goods, wares, and merchandise mentioned in the schedule hereto annexed shall, when imported into this island, be exempt from all duties of customs now payable or chargeable in respect thereof under or by virtue of the said Ordinance No. 17 of 1869, the said Ordinance No. 14 of 1871, and the said Ordinance No. 39 of 1884: Provided, however, that nothing herein contained shall affect any duties or arrears of duties which shall be due or payable at the date when this Ordinance shall come into operation.

Ordinance to be read as one with No 17 of 1869, No 14 of 1871, and No. 39 of 1884

2 This Ordinance and the said Ordinances No. 17 of 1869, No. 14 of 1871, and No. 39 of 1884 shall be read as one Ordinance.

SCHEDULE.

Bricks and tiles
Drawing materials
Felt
Gunnies
Hoop iron
Instruments, surgical, &c.
Lime and clay
Orchilla weed
Printing materials
Prints and pictures
Rattan
Resin
Seeds:—
  Cotton
  Castor
Seeds:—
  Rape
  Poppy
  Niger
  Mustard
  Bird
Senna leaves
Stones of sorts
Tallow and grease
Timber
Woods:—
  Dye
  Sandal, and
  Of sorts

19th February, 1885.

No. 9 of 1885.

An Ordinance to further provide for the protection of certain descriptions of Produce.

(*See No. 22 of 1886.*)

WHEREAS it is expedient to make further provision for the protection of certain descriptions of produce which are especially liable to theft: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

1 For the purposes of this Ordinance the following terms shall have the meaning hereby assigned to them: **Interpretation clause.**

"Labourer" shall include all persons excepting superintendents and assistant superintendents, temporarily or permanently employed on any plantation, in any capacity, whether agricultural, menial, or otherwise howsoever.

"Plantation" shall include any land on which coffee, tea, cacao, cardamoms, or cinchona are growing, as also cocoanut estates of over twenty-five acres in extent.

"Produce" shall include the fruit, leaf, bark, and roots of any plant cultivated in a plantation.

2 Every person found loitering or lurking about any plantation shall, unless he can give satisfactory reason to the police magistrate before whom he is tried for such loitering or lurking, be deemed guilty of an offence, and shall be liable on conviction before such police magistrate, who is hereby authorized and empowered to entertain and adjudicate upon such offence, to rigorous or simple imprisonment for any term not exceeding six weeks, or to a fine not exceeding twenty-five rupees. **Loitering or lurking on plantation to be an offence.**

3 Whenever the unripe fruit of the coffee or cacao tree, or of the tea or cardamom plant, or of the arecanut palm, or the bark, whether of the branch, root, or stem of the cinchona tree, shall be found in the possession of any person who is unable to give a satisfactory account of his possession thereof, such person shall be deemed and adjudged guilty of an offence, and shall on conviction be liable to the punishments provided for the theft of prædial products under section 368 of "The Ceylon Penal Code." Provided that should the offence be one for which a person may be convicted before a police magistrate, such police magistrate may, in addition to any term of imprisonment to which the offender may be sentenced by him for such offence, order such offender to be whipped in the manner prescribed by sections 55 and 56 of "The Ceylon Penal Code." anything in such Code or in "The Criminal Procedure Code, 1883." to the contrary notwithstanding. Provided that the number of lashes or strokes to be inflicted shall in no case exceed twenty. **Possessor of unripe produce to be deemed guilty of theft until contrary be shown.** [§ 2, 22 of 1886]

4 It shall not be lawful for any one to purchase or take in barter or exchange or receive any produce from any labourer employed on any plantation. **Restriction on purchase of produce.**

Penalties for offences under section 4 of Ordinance.

5 Any person committing any breach of any of the provisions contained in the 4th section of this Ordinance shall be deemed guilty of an offence, and shall be liable on conviction before a police magistrate, who is hereby authorized and empowered to entertain and adjudicate upon any such offence, to rigorous or simple imprisonment for any term not exceeding six months, or to a fine not exceeding one hundred rupees, or to whipping as prescribed by section 3 of this Ordinance, or any two of those punishments.

6 This Ordinance shall come into operation on such day as shall be hereafter fixed by the Governor in a Proclamation to be published in the *Government Gazette*.*

19th February, 1885.

No. 10 of 1885.

(As amended by No. 1 of 1892.)

An Ordinance relating to Forests and Waste Lands, and to the Felling and Transport of Timber.

BE it enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

CHAPTER I.

Preliminary.

Short title.

1 This Ordinance may be called "The Forest Ordinance, 1885."

Repeal of enactments.

2 Ordinance No. 6 of 1878, entitled "An Ordinance to amend the Law relating to the Felling, Destruction, and Removal of Timber grown on Crown Lands," is hereby repealed; provided that this appeal shall not affect—

(*a*) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(*d*) Any legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

Interpretation clause.

3 In this Ordinance, and in all rules made hereunder, unless there is something repugnant in the subject or context—

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* Proclaimed the 1st day of October, 1885.

"Forest officer" means all persons appointed by name or as holding an office by or under the orders of the Governor to be conservators, deputy conservators, assistant conservators, foresters, forest rangers, forest guards, or forest watchers, or to discharge any function of a forest officer under this Ordinance or any regulation or rule made hereunder, "Forest officer." [§ 1, 1 of 1892]

"Headmen" means all persons holding appointments as territorial headmen by warrant or act under the hand of the Governor or of the government agent, excepting headmen appointed for irrigation purposes or for the purposes of the Village Communities' Ordinances; "Headmen."

"Tree" includes bamboos, stumps, and brushwood, palms, and trees in all stages of their growth; "Tree."

"Timber" includes trees when they have fallen or have been felled, and all wood, whether cut up or fashioned or hollowed out for any purpose or not; "Timber."

"Forest" means all land at the disposal of the Crown; "Forest."

"Forest produce" includes the following things when found in, or brought from, a forest (that is to say): Minerals (including limestone and laterite), surface-soil, trees, timber, plants, grass, peat, canes, creepers, reeds, leaves, moss, flowers, fruits, seeds, roots, juice, catechu, bark, caoutchouc, gum, wood-oil, resin, varnish, lac, charcoal, honey, wax, stone, ruins, clay, gravel, and earth; "Forest produce"

"Forest offence" means an offence punishable under this Ordinance or any regulation or rule made hereunder; "Forest offence."

"Cattle" includes elephants, buffaloes, horses, geldings, ponies, colts, mules, asses, pigs, sheep, lambs, goats, kids, and calves; "Cattle."

"River" includes streams, canals, creeks, reservoirs, lakes, and other channels, natural or artificial: "River"

"Reserved forest" includes stream reservations and reservations on the banks of rivers; "Reserved forest."

"Forest plantation" means any plantation made in any forest. "Forest plantation." [§ 1, 1 of 1892]

"Land at the disposal of the Crown" means all land— "Land at the disposal of the Crown."

(*a*) Which, under Ordinance No. 12 of 1840, is presumed to be property of the Crown until the contrary be proved, saving any rights acquired under section 8 of the said Ordinance; and saving all rights to paddy lands on which taxes have been paid for thirty years or upwards;

(*b*) In respect of which no person has acquired any right, by written grant or lease made by or on behalf of the British, Dutch, or native Governments, and duly registered as required by law;

(*c*) In respect of which no person has acquired a right as against the Crown by the issue to him of any certificate of no claim by the Crown under Ordinances No. 12 of 1840 or No. 1 of 1844.

(*d*) Not registered as temple lands under Ordinance No. 10 of 1856.

"Police officer." "Police officer" includes police headmen, police vidhans, and constables;

"Government agent." "Government agent" means the government agent of the province;

"Assistant government agent." "Assistant government agent" means the assistant government agent of the district;

"Imprisonment." "Imprisonment" means either rigorous or simple imprisonment as the court adjudging the same may impose.

Questions of title.

4 If in any prosecution or proceeding under this Ordinance any question shall arise as to the title to the land in respect of which any such prosecution or proceeding shall be taken, the court or officer having jurisdiction to entertain and adjudicate upon any such prosecution or proceeding shall, for the purposes of the said prosecution or proceeding, have jurisdiction to try and determine any such question of title. Provided that the judgment or decision of such court or officer on any such question shall not be received as evidence of title or pleaded in bar in any civil suit or proceeding in which the title to the land in question may be put in issue.

[§ 2, 1 of 1892] And in the event of judgment being entered in any suit or proceeding instituted against the Crown decreeing the title to any land reserved under section 19 to be vested in the person instituting such suit or proceeding, such land shall cease to be reserved from the date of such decree.

CHAPTER II.

Of Reserved Forests.

Power to reserve forests.

5 The Governor may constitute any land at the disposal of the Crown a reserved forest in manner hereinafter provided.

Notice in *Gazette.* [§ 3, 1 of 1892]

6 Whenever it is proposed to constitute any *such* land a reserved forest, notice thereof shall be published in the *Government Gazette*—

(*a*) Specifying as nearly as possible the situation and limits of such land;

(*b*) Declaring that it is proposed to constitute such land a reserved forest;

(*c*) Naming an officer (hereinafter called the "forest settlement officer") who shall be appointed by the Governor to inquire into and determine the existence, nature, and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, and any claims relating to the practise within such limits of chena cultivation, and to deal with the same as provided in this chapter.

7 When a notice has been published under section 6, the forest settlement officer shall publish in the language of the district in every chief headman's division in which any portion of the land comprised in such notice is situate, and in every town and village in the immediate neighbourhood of such land, a notification— **Notification by forest settlement officer.**

(*a*) Specifying as nearly as possible the situation and limits of the proposed forest;

(*b*) Setting forth the substance of the provisions of section 8;

(*c*) Explaining the consequences which, as hereinafter provided, will ensue on the reservation of such forest; and

(*d*) Fixing a period of not less than three months from the date of publishing such notification, and requiring every person claiming any right or making any claim referred to or mentioned in section 6 either to present to such officer within such period a written statement specifying, or to appear before him within such period and state, the nature of such right or claim.

8 During the interval between the publication of such notification and the date fixed by the Proclamation declaring the forest to be reserved as provided in section 19, no right shall be acquired in or over the land comprised in such Proclamation, except by inheritance or succession or under a grant or contract in writing made or entered into by, or on behalf of, the Crown or some person in whom such right, or power to create the same, was vested when the notification was published; and, on such land, no new house shall be built or plantation formed, no fresh clearings for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture, except with the permission, in writing, of the government agent or assistant government agent. **Bar of accrual of forest rights.** **Prohibition of building, clearing, &c.**

9 The forest settlement officer shall take down in writing all statements made under section 7, and shall inquire into all claims made under that section, and the existence of any right or practise mentioned in section 6 in respect of which no claim is made. The forest settlement officer shall at the same time consider and record any objection which a forest officer may make to any such claim or to the existence of any such right or practise. **Inquiry by forest settlement officer.**

10 The record of all evidence, whether oral or documentary, taken by the forest settlement officer at the investigation of each claim shall be made up in a separate file, and the finding or decision thereon, and his reasons therefor, and all orders of the forest settlement officer in relation thereto, shall be duly entered on the said record. The record so made up shall be open at all reasonable times, upon application in writing being first made to the forest settlement **Record:** **Inspection and copies.**

officer, to the inspection of any party interested in such claim, who shall be entitled to copies of such record or any part thereof, to be made at the expense of the party applying for the same.

Powers of forest settlement officer.

[§ 4, 1 of 1892]

11 For the purposes of such inquiry the forest settlement officer may exercise the powers conferred on commissioners appointed under the provisions of Ordinance No. 9 of 1872 for compelling the attendance of witnesses and the production of documents, and for administering oaths to all persons who shall be examined before them, provided that the requirements of the proviso to section 2 of such Ordinance shall not be necessary for the purposes of this Ordinance.

Claims relating to practise of chena cultivation how dealt with.

12 In the case of a claim relating to the practise of chena cultivation, the forest settlement officer shall pass an order specifying the particulars of such claim and permitting, or refusing to permit, such practise wholly or in part.

If such practise is permitted wholly or in part, the forest settlement officer may—

(*a*) Alter the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants; or

(*b*) Cause certain portions of the reserved forest to be separately demarcated, and give permission to the claimants to practise chena cultivation therein under such rules and conditions as he may prescribe.

No right, further than permission, to practise chena cultivation shall be deemed to be conferred by an order under this section permitting such practise, and, except with the sanction of the government agent or assistant government agent, such cultivation shall only be practised by the person or community to whom such permission is granted.

Power to acquire land over which right is claimed.

13 In the case of a claim to a right in or over any land other than the following rights:

(*a*) A right of way;

(*b*) A right to use of water;

(*c*) A right of pasture, or to forest produce;

the forest settlement officer shall pass an order specifying the particulars of such claim, and admitting or rejecting the same wholly or in part.

If such claim is admitted wholly or in part, the forest settlement officer may (1) come to an agreement with the claimant for the surrender of the right; or (2) exclude the land from the limits of the proposed forest; or such land may be acquired in the manner provided by "The Land Acquisition Ordinance, 1876," and Ordinance No. 6 of 1877.

Forest settlement officer to have power to try questions of title.

[§ 5, 1 of 1892]

If in any inquiry by a forest settlement officer any question shall arise as to whether the land proposed to be constituted a reserved forest is land at the disposal of the Crown, the forest settlement officer shall have jurisdiction to try and determine any such question of title for the purposes of this Ordinance.

Order on claims to rights of way, water-course, pasture, and to forest produce.

14 In the case of a claim to rights of the kind specified in clauses (*a*), (*b*), and (*c*) of section 13, the forest settlement officer shall pass an order specifying the particulars of such claim, and admitting or rejecting the same wholly or in part.

When a claim to any such right is admitted, if the right is for the beneficial enjoyment of any land or buildings, he shall record the designation, position, and area of such land, and the designation and position of such buildings.

Where the right is a right to forest produce, he shall also record whether the forest produce obtained by the exercise of such right may be sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents, and extent of the right.

Provision for rights of pasture or to forest produce admitted.

15 When the forest settlement officer has admitted wholly or in part, and recorded under section 14, a claim to a right of pasture or to forest produce, he shall as far as possible provide for the exercise of such right—

(*a*) By altering the limits of the proposed reserved forest so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimant;

(*b*) By recording an order continuing to the claimant a right of pasture or to forest produce (as the case may be), subject to such rules as may from time to time be prescribed on that behalf by the government agent.

The order passed under clause (*b*) shall record, as far as practicable, the number and description of the cattle which the claimant is from time to time entitled to graze, the local limits within which, and the seasons during which, such pasture is permitted; or

The quantity of timber or other forest produce which the claimant is authorized to take or receive, the local limits within which, the season during which, and the mode in which, the taking of such produce is permitted; and

Such other particulars as may be required in order to define the extent of the right which is continued, and the mode in which it may be exercised.

Commutation of such rights.

16 Whenever any right of pasture or to forest produce admitted under section 14 is not provided for in one of the ways prescribed in section 15, the forest settlement officer shall, subject to such regulations as the Governor may from time to time prescribe in this behalf, commute such right by paying a sum of money in lieu thereof, or, with the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

Notification declaring forest reserved.

19 When the following events have occurred, namely:

(*a*) The period fixed under section 7 for preferring claims has elapsed, and all claims (if any) made within such period have been disposed of by the forest settlement officer; and

[*See § 6, 1 of 1892*]

(*b*) If such claims have been made, the periods fixed for appealing from the orders passed on such claims have elapsed, and all appeals (if any) presented within such period have been disposed of by the Supreme Court; and

(*c*) All lands (if any) to be included in the proposed forest, which may be acquired under section 13, have become vested in the Crown;

the Governor shall, by Proclamation to be published in the *Government Gazette*, specify the limits of the forest which it is intended to reserve, and declare the same to be reserved from a date fixed by such Proclamation.

From the date so fixed such forest shall be deemed to be a reserved forest.

Extinction of rights not claimed.

[§ 7, 1 *of 1892*]

20 Rights in respect of which no claim has been preferred under section 7, and of the existence of which no knowledge has been acquired by inquiry under section 9, shall thereupon be extinguished, unless before the publication of such Proclamation the person claiming them has satisfied the forest settlement officer that he had sufficient cause for not preferring such claim within the period fixed under section 7.

Provided, however, that the right of any person in respect of whom no such claim has been made, and of the existence of which such knowledge has not been acquired, may be inquired into at any time during three years succeeding the institution of such inquiry; and if such person was absent from the island when the inquiry of the forest settlement officer was held, the rights of such person may be inquired into at any time during ten years succeeding the institution of such inquiry: Provided further that this reservation of the rights of claimants shall not in any way stay the publication of the Proclamation aforesaid.

Publication of translation of such notification in neighbourhood of forest.

21 The government agent of the province in which the forest so reserved is situate shall, before the date fixed by such Proclamation, cause a translation thereof in the language of the district to be published in the manner prescribed under section 7.

Power to revise arrangement made under sections 12, 14, or 15.

22 The Governor, with the advice of the Executive Council, may, within five years from the publication of any Proclamation under section 19, revise any arrangement made under sections 12, 14, or 15, and may rescind or modify any order made under this chapter, and direct that any of the proceedings specified in section 15 be taken in lieu of any other of such proceedings, or that the permission granted under section 12, or rights admitted under section 14, be commuted under section 16.

No right acquired over reserved forest except as here provided.

23 No right of any description shall be acquired in or over a reserved forest, except by inheritance or succession, or under a grant or contract in writing made by, or on behalf of, the Crown, or some person in whom such right, or the power to create such right, was vested when the Proclamation under section 19 was published.

Rights not to be alienated without sanction.

24 Notwithstanding anything herein contained, no right continued under section 15 shall be alienated by way of grant, sale, lease, mortgage, or otherwise, without notice thereof

to the government agent: provided that when any such right is continued for the beneficial enjoyment of any land or house, it may be sold or otherwise alienated with such land or house, without such sanction.

No timber or other forest produce obtained in exercise of any right so continued shall be sold or bartered, except to the extent defined by the order recorded under section 15.

Power to stop ways and water-courses in reserved forest.

25 Any forest officer may, from time to time, with the previous sanction of the government agent, stop any public or private way or water-course in a reserved forest: provided that for the way or water-course so stopped another way or water-course, which in the opinion of the government agent is equally convenient, already exists, or has been provided or constructed by such forest officer.

Provided further, that it shall be lawful for the government agent to determine the amount of compensation to be paid, in case he is of opinion that the substituted way or water-course injuriously affects the interests of one or more individuals, to whom on that account compensation should be paid.

Penalties for trespass or damage in reserved forests.

26 A person who in a reserved forest—

(*a*) Trespasses, or pastures cattle, or wilfully causes cattle to trespass;

(*b*) Causes any damage by negligence in felling any tree, or cutting or dragging any timber;

(*c*) Wilfully strips off the bark or leaves from, or otherwise damages, any tree;

(*d*) In contravention of any rules made by the government agent of the province on that behalf, hunts, shoots, fishes, poisons water, or sets traps or snares, or guns, or uses any explosive substance;

shall be guilty of an offence and be liable on conviction to a fine which may extend to fifty rupees, or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

Acts prohibited in such forests.

27 Any person who—

(*a*) Makes any fresh clearing prohibited by section 8; or

(*b*) Sets fire to a reserved forest, or in contravention of any rules made by the government agent, kindles any fire, or leaves any fire burning in such manner as to endanger the reserved forest, or any part thereof;

or who, in a reserved forest—

(*c*) Kindles, keeps, or carries any fire except at such seasons and in such manner as a forest officer, specially empowered in this behalf, may from time to time notify;

(*d*) Fells, girdles, lops, taps, or burns any tree;

(*e*) Quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest produce;

(*f*) Clears or breaks up any land for cultivation or any other purpose;

shall be guilty of an offence and be liable to be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both, in addition to such compensation for damage done to the forest, as the convicting court may direct to be paid.

Such compensation when awarded shall be treated in all respects as a fine, shall be recoverable as such, and shall not exceed the amount of fine which such court has power to impose.

Acts excepted from prohibition contained in sections 26 and 27.

[§ 8, 1 of 1892]

28 Nothing in section 26 or section 27 shall be deemed to prohibit (*a*) any act done in accordance with any regulation made by the Governor or with the permission in writing of a forest officer empowered to grant such permission; or (*b*) any practise of chena cultivation permitted under section 12; or (*c*) the exercise of any right continued under section 15 or created by grant or contract in the manner described in section 23.

Penalty for offences committed by persons having rights in reserved forests.

29 Whenever fire is caused wilfully or by gross negligence in a reserved forest by any person having rights in such forest, or having permission to practise chena cultivation therein, or by any person in his employment, or whenever any person having rights in such forest contravenes the provisions of section 24, the Governor may (notwithstanding that a penalty has been inflicted under section 27 in respect of such fire) direct that in such forest or any specified portion thereof the exercise of all or any of the rights of pasture or to forest produce shall be extinguished or suspended for such period as he thinks fit, and may withdraw any permission to practise chena cultivation in such forest or portion.

Power to declare forest no longer reserved.

30 The Governor may, by Proclamation in the *Gazette*, direct that, from a date fixed by such Proclamation, any forest or any portion thereof reserved under this Ordinance shall cease to be reserved.

From the date so fixed, such forest or portion shall cease to be reserved; but the rights (if any) which have been extinguished therein shall not revive in consequence of such cessation.

Forests reserved under former law.

31 Any forest which has been declared a reserved forest under any law in force previous to the day on which this Ordinance comes into force, shall be deemed to have been reserved hereunder; and all questions decided, orders issued, and records prepared in connection with the reservation of such forest, shall be deemed to have been decided, issued, and prepared hereunder, and all provisions of this Ordinance relating to reserved forests shall apply to such forest.

Claims made under section 31 within five years to be dealt with as claims made under sections 12, 13, and 14.

32 In the event of any claim being preferred, within five years from the date of the passing of this Ordinance, to rights in any forest, which under section 31 has been continued as a reserved forest, inquiry shall be made into such claim, and it shall be dealt with in the same manner as if it had been made under sections 12, 13, and 14.

33 (*a*) Any party to the proceedings who is dissatisfied with the decision or order of a forest settlement officer in respect of any claim made under section 13 or section 14 may appeal to the Supreme Court against such order or decision, by lodging within three weeks from the date of such order or decision being made, with the said forest settlement officer, a petition of appeal addressed to the Supreme Court, provided such party file with the said appeal an affidavit setting out the value of the right or of the land with regard to which the order or decision has been given against him.

Appeals to Supreme Court. [§ 9, 1 of 1892]

(*b*) The forest settlement officer on receiving such affidavit and appeal petition shall transmit the same, together with all proceedings taken by him, to the Registrar of the Supreme Court, and the said court shall make such order as the justice of the case may require, and such order shall be duly carried into effect.

(*c*) Stamp duty shall be charged upon every such petition of appeal and upon every such affidavit, at the rates specified in part II. of the schedule B to "The Stamp Ordinance, 1890," for similar instruments in the district courts, and upon subsequent proceedings at the rates specified in the said schedule for appeals from the district courts; and every such appeal shall be dealt with and disposed of in the same manner and subject to the same rules as appeals from district courts are dealt with and disposed of.

CHAPTER II. (*a*).

Forests leased by the Government.

It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation in the *Government Gazette*, at any time or from time to time, to declare any of the provisions of this Ordinance, and of any regulations or rules made thereunder, to be applicable to forests leased to the Crown, and to bring such forests within the operation of such provisions, regulations, or rules, and any such Proclamation, with like advice, to revoke, alter, or amend.

Application of Ordinance to leased forests. [§ 10, 1 of 1892]

CHAPTER III.

Of Village Forests.

34 The Governor may, by Proclamation in the *Gazette*, constitute any portion of forest a village forest for the benefit of any village community or group of village communities, and may in like manner vary or cancel any such Proclamation.

Constitution of village forests.

Every such Proclamation shall specify the limits of such village forest.

35 All trees enumerated in schedule A hereto in a village forest shall be deemed to be the property of the Crown; and no person shall cut, mark, lop, girdle, or injure, by fire or otherwise, any such trees without the permission of a forest officer empowered to grant such permission.

Trees in schedule A in village forest the property of the Crown.

36 The Governor, with the advice of the Executive Council, may make regulations for the management of village forests, prescribing the conditions under which the community or group of communities, for the benefit of which any such forest is constituted, may be provided with timber or other forest produce or with pasture, and their duties in respect of the protection and improvement of such forest.

Power to make rules for village forests.

The Governor, with the advice of the Executive Council, may, by such regulations, declare any of the provisions of chapter II. of this Ordinance to be applicable to village forests.

Saving of private rights.

37 Nothing in this chapter shall be deemed to affect any existing rights of any person in or over any village forest.

Power to inquire into and deal with such rights.

The Governor may in any case direct that all claims to any such rights, other than the rights of the village community or group of village communities for the benefit of which such village forest is constituted, shall be inquired into, recorded, and provided for in the manner prescribed by chapter II. of this Ordinance.

Penalty for breach of sections 34 and 35.

38 Every person who shall do any of the acts prohibited by section 35, and every person who commits a breach of any of the regulations made under section 36, shall be guilty of an offence punishable by a fine not exceeding one hundred rupees, or by imprisonment which may extend to six months.

CHAPTER IV.

Of the Protection of Forests and Forest Produce.

Reserved trees.

39 All trees enumerated in schedule B hereto standing in any forest shall be deemed reserved trees, and the Governor may by notification in the *Gazette*—

(*a*) Declare that any other trees or any specified class of other trees standing in any forest land shall, from a date to be fixed by such notification, be reserved trees;

(*b*) Vary or cancel any such notification.

Protection of reserved trees. [§ *11, 1 of 1892*]

40 No person shall, or shall cause any other person to, cut, mark, lop, girdle, tap, or injure, by fire or otherwise, any reserved tree in any forest, except as provided by rules made by the government agent on this behalf, or unless with the permission in writing of a forest officer empowered by the government agent to grant such permission.

Power to make rules generally.

41 No person shall clear, set fire to, or break up the soil of, or make use of the pasturage, or of the forest produce of, any forest, and not included in a reserved or village forest, except in accordance with rules which may be prescribed by the government agent, subject to the approval of the Governor, with the advice of the Executive Council. Such rules may, with respect to such land—

(*a*) Regulate or prohibit the cutting of, or setting fire to, chenas, or the issue of grants or leases by Government with respect to land on which trees enumerated in schedule B hereto are growing;

(*b*) Regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(*c*) Regulate or prohibit the cutting, sawing, conversion, and removal of trees and timber, and the collection and removal of forest produce;

(*d*) Regulate or prohibit the building of houses or huts, the quarrying of stone or coral, or the digging for plumbago or gems, or the burning of lime or charcoal;

(*e*) Regulate or prohibit the cutting of grass and the pasturing of cattle, and regulate the payments (if any) to be made for such cutting or pasturing;

(*f*) Regulate or prohibit hunting, shooting, fishing, poisoning water, and setting traps or snares or guns; or the use of explosives;

(*g*) Regulate the sale or free grant of timber or other forest produce; and

(*h*) Prescribe, or authorize any forest officer to prescribe, subject to the sanction of the Governor, the fees, royalties, or other payments for such timber or other forest produce, and the manner in which such fees, royalties or other payments shall be levied, whether in transit, or partly in transit, or otherwise.

Nothing in this section shall be deemed to affect any existing rights of any person in or over pasturage.

Power to make new rules and repeal old rules. [§ 12, 1 of 1892]

41A The government agent may add to, amend, or repeal, any rules prescribed by him under section 41, or prescribe new rules in lieu thereof. Provided that any addition, amendment, or repeal, and all new rules prescribed by the government agent under the provisions of this section, shall be subject to the approval of the Governor, with the advice of the Executive Council, and shall, if approved, be published as in section 81 provided.

Penalties for acts in contravention of rules.

42 The breach of any of the provisions of, or regulations or rules made under this chapter, shall constitute an offence punishable by a fine not exceeding one hundred rupees, or by imprisonment which may extend to six months.

Nothing in this chapter to prohibit acts done in certain cases.

43 No act shall be deemed to be an infringement of any rule made under this chapter if done with the permission in writing of the government agent or assistant government agent.

Nothing in chapter IV. to apply to reserved forests. [§ 13, 1 of 1892]

43A Nothing in this chapter shall apply to reserved forests.

CHAPTER V.

Of the control of Timber and Forest Produce in Transit.

Power to make rules to regulate transit of timber.

44 The Governor, with the advice of the Executive Council, may make regulations respecting the transit of all forest produce by land or water.

Such regulations may among other matters—

(*a*) Prescribe the places at and the routes by which alone forest produce may be exported from, or removed within, the colony;

(*b*) Prohibit the import and export or moving of such forest produce without a pass from an officer duly authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*c*) Provide for the issue, production, and return of such passes;

[§ 14, 1 of 1898] (*d*) Fix the fees payable for *passes for forest produce and timber when cut on land the property of the Crown;*

(*e*) In the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof, or not acting on behalf of such owner or of the Crown;

[§ 14, 1 of 1898] (*f*) Provide for the stoppage, reporting, examination, and marking of *forest produce* in transit, in respect of which there is reason to believe that any money is payable to the Crown, or to which it is desirable, for the purposes of this Ordinance, to affix a mark;

[§ 14, 1 of 1898] (*g*) Establish, or authorize any forest officer to establish, subject to the control of the Governor, stations to which such *forest produce* shall be taken by those in charge of it for examination, or for the realization of such money, or in order that such mark may be affixed to it; and the conditions under which such *forest produce* shall be brought to, stored at, and removed from, such station;

(*h*) Provide for the management and control of such stations, and for regulating the appointment and duties of persons employed thereat;

(*i*) Authorize the transport of timber the property of the Crown across any land, and regulate the compensation to be paid for any damage done by the transport of such timber;

(*j*) Prohibit the closing up or obstruction of the channel or banks of any river, lagoon, or backwater used for the transit of timber, and the throwing of grass, brushwood, branches, and leaves into any such river, lagoon, or backwater, or any other act which tends to cause the obstruction of such channel;

(*k*) Provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, lagoon, or backwater, and for recovering the cost of such prevention or removal from the person, or by the sale of any timber, causing such obstruction;

(*l*) Prohibit absolutely, or subject to conditions within specified local limits, the establishment of sawpits, the converting, cutting, burning, concealing, marking, or supermarking of timber, the altering or effacing of any marks on the same, and possession or carrying of marking-hammers or other implements used for marking timber;

(*m*) Regulate the use of property-marks for timber, and the registration of such marks; declare the circumstances in which the registration of any property-marks may be refused or cancelled; prescribe the time for which such registration shall hold good; limit the number of such marks that may be registered by any one person, and provide for the levy of fees for such registration.

The Governor in Executive Council may direct that any regulation made under this section shall not apply to any specified class of timber or other forest produce, or to any specified local area. [§ *14, 1 of 1892*]

In this section the terms "forest produce" and "timber" shall, unless the context otherwise requires, include timber cut in any land or property, whether the property of the Crown or any private individual. [§ *14, 1 of 1892*]

Penalties.

45 The breach of any of the provisions of, or regulations made under, this chapter shall constitute an offence punishable by a fine not exceeding one hundred rupees, or by imprisonment which may extend to six months. Provided that any such regulation may, within the above limits, prescribe any punishment, or maximum or minimum punishment, for the breach of all or any of the provisions thereof.

Government agent may require person claiming land to mark boundaries.

47 The government agent, in case there is reasonable ground for supposing that any timber for the removal of which a permit is desired has been felled on land which is not private property, may require the person claiming to be the owner of the land on which the timber has been felled to mark the boundaries of the said land, and to call upon the Surveyor-General to inspect such boundaries as provided by the 12th section of Ordinance 1 of 1844; and the government agent may defer the issue of the pass to remove the timber until the certificate of the Surveyor-General has been produced, *unless the claimant shall give security to the satisfaction of the government agent equal to the value of such timber.* [§ *15, 1 of 1892*]

Forest officer, &c., may stop timber in transit.

48 The forest officer or any other officer thereto authorized shall have power to stop and examine any timber during transit, and to detain it, if it is in his opinion being removed contrary to the provisions of this Ordinance, and deal with it as provided in chapter VII.

Forest officer, &c., may enter private depôt.

49 Such forest officer or other officer shall also have power to enter any private depôt or timber yard, and to inspect the timber therein lying, and to collect and remove all unstamped or unmarked unsawn logs as provided in chapter VI.

All persons bound to aid in case of accident at station.

50 In case of any accident or emergency involving danger to any property at any such station, every person employed at such station, whether by the Crown or by any private person, shall render assistance to any forest officer or police officer demanding his aid, in averting such danger and securing such property from damage or loss.

CHAPTER VI.

Of the Collection of Drift, Stranded, and other Timber.

Certain kinds of timber to be deemed property of Government until title thereto proved.
[§ *16, 1 of 1892*]

51 *All unclaimed timber found adrift, beached, stranded, or sunk;*

All timber bearing marks which have not been registered under regulations made under section 44;

All timber which has been supermarked, or on which the marks have been obliterated, altered, or defaced, by fire or otherwise; and

In such areas as the Governor directs, all unmarked or unstamped timber;

shall be deemed to be the property of the Crown unless and until any person establishes his right thereto, as provided in this chapter.

Power to collect the same.

Such timber may be collected by any forest officer or any headman authorized by the government agent, and may be brought to such stations as a forest officer empowered in this behalf may from time to time notify.

Governor may exempt timber from these provisions.

The Governor may, by notification in the *Gazette*, exempt any class of timber from the provisions of this section, and withdraw such exemption.

Notice to claimants of drift timber.

52 Public notice shall from time to time, as occasion may require, be given by a forest officer empowered in this behalf of timber collected under section 51. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on claim preferred to such timber.

53 When any such statement is presented as aforesaid, the forest officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

If such timber is claimed by more than one person, the forest officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the civil court and retain the timber pending the receipt of an order from such court for its disposal.

On rejection of claim to such timber, claimant may institute suit.

Any person whose claim has been rejected under this section may, within one month from the date of such rejection, institute a suit to recover possession of the timber claimed by him; but no person shall recover any compensation against the Crown or against any forest officer on account of such rejection, or the detention or removal of any timber, or the delivery thereof to any other person under this section.

No such timber shall be subject to process of any civil court until it has been delivered, or a suit brought under this section has been decided.

Disposal of unclaimed timber.

54 If no statement is presented in the manner and within the period prescribed by the notice issued under section 52, or, where such statement having been so presented and, the claim having been rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 53, the ownership of such timber shall vest in the Crown free from all incumbrances; or, when such timber has been delivered to another person under section 53, in such other person, free from all incumbrances not created by him.

Payments to be made by claimant before timber is delivered to him.

55 No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until he has paid to the forest officer, or other person entitled to receive it, such sum on account thereof as may be due for collecting, moving, storing, and disposing of the same.

Power to make rules and prescribe penalties.

56 The Governor, with the advice of the Executive Council, may make regulations respecting the following matters (namely):

(*a*) The collection and disposal of all timber mentioned in section 51;

(*b*) The amount to be paid for salving, collecting, moving, storing, and disposing of such timber; and

(*c*) The use and registration of branding irons and other instruments to be used for marking such timber.

The breach of any of the provisions of, or regulations made under, this chapter shall constitute an offence punishable by a fine not exceeding one hundred rupees, or by imprisonment which may extend to six months.

CHAPTER VII.

Penalties and Procedure.

Seizure of property liable to confiscation

57 When there is reason to believe that a forest offence has been committed in respect of any timber or forest produce, such timber or produce, together with all tools, boats, carts, and cattle used in committing any such offence, may be seized by any forest officer or police officer.

Report to government agent.

Every officer seizing any property under this section shall place on such property or the receptacle (if any) in which it is contained a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of the circumstances to the government agent or assistant government agent. [§ *17, 1 of 1892*]

Provided that when the timber or forest produce with respect to which such offence is believed to have been committed is the property of the Crown, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to the government agent or assistant government agent.

Procedure thereupon.
[§ 18, 1 of 1892]

58 Upon the receipt of any such report the government agent or assistant government agent shall forthwith forward the same to the police magistrate having jurisdiction to try the offence, and such magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Timber, forest produce, tools, &c., when liable to confiscation

59 When any person is convicted of a forest offence, all timber or forest produce in respect of which such offence has been committed, and all tools, boats, carts, and cattle used in committing such offence, shall be liable, by order of the convicting magistrate, to confiscation.

Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for forest offence, of produce in respect of which it was committed.

60 When the trial of any forest offence is concluded, any timber or forest produce in respect of which such offence has been committed shall, if it is the property of the Crown, or has been confiscated, be taken possession of by a forest officer empowered in this behalf; and in any other case may be disposed of in such manner as the court may order.

Procedure as to perishable property seized under section 57.
[§ 19, 1 of 1892]

62 The *government agent or assistant government agent* may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 57 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

[§ 19, 1 of 1892]

Provided that if the claimant shall give security to the satisfaction of the government agent or assistant government agent equal to the value of such property, the government agent or assistant government agent shall forthwith release the seizure and allow such property to be removed by the claimant.

Appeal from orders under sections 57, 59, and 60.
[§ 20, 1 of 1892]

63 Any person claiming to be interested in property seized under section 57 may, within *thirty* days from the date of any order passed under section 59, *or section 60*, present an appeal therefrom to the Supreme Court, and such court shall deal with the case in the same way as if it were an appeal from a police court in its ordinary jurisdiction.

Property when vested in the Crown.
[§ 21. 1 of 1892]

64 When an order for the confiscation of any property has been passed under section *59*, and the period limited by section 63 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when, on such an appeal being presented, the appellate court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Crown free from all incumbrances.

Saving of power to release property seized.

65 Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the government agent from directing at any time the immediate release of any property seized under section 57 and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure.

66 Any forest officer or police officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Ordinance, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Any fine so imposed, or any portion thereof, shall, if the convicting magistrate so direct, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

67 Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Ceylon Penal Code—

(*a*) Knowingly counterfeits upon any timber or standing tree a mark used by forest officers to indicate that such timber or tree is the property of the Crown or of some person, or that it may lawfully be cut or removed by some person; or

(*b*) Unlawfully affixes to any timber or standing tree a mark used by forest officers; or

(*c*) Alters, defaces, or obliterates any such mark placed on any timber or standing tree by or under the authority of a forest officer; or

(*d*) Alters, moves, destroys, or defaces any boundary-mark of any forest to which any provisions of this Ordinance apply;

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

68 Any forest officer or police officer may, without orders from a magistrate and without a warrant, arrest any person reasonably suspected of having been concerned in any forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence which there is reason to believe to be false, or if there is reason to believe that he will abscond.

Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a magistrate having jurisdiction in the case, together with a statement showing the offence with which the accused is charged.

Power to prevent commission of offence.

69 Every forest officer and police officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest offence.

Operation of other laws not barred.

70 Nothing in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Ordinance or the regulations or rules made hereunder:

Provided that no person shall be punished twice for the same offence.

Power to compound offences.

71 Any forest officer empowered by the government agent in this behalf may accept from any person, reasonably suspected of having committed any forest offence other than an offence under section 66 or section 67, a sum of money by way of compensation for the offence which may have been committed; and where any property has been seized as liable to confiscation, may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property seized shall be released, and no further proceedings shall be taken against such person or property.

Presumption that timber or forest produce belongs to the Crown.

72 When in any proceedings taken under this Ordinance, or in consequence of anything done under this Ordinance, a question arises as to whether any timber or forest produce is the property of the Crown, such timber or produce shall be presumed to be the property of the Crown until the contrary is proved.

CHAPTER VIII.

Cattle Trespass.

Cattle trespass.
[§ *22, 1 of 1892*]

73 Cattle trespassing on a forest plantation under the control and management of forest officers may be seized and impounded by any forest officer or police officer.

Power to alter fines.

74 The Governor may, by notification in the *Gazette*, direct that there shall be levied for each head of cattle impounded under section 73 of this Ordinance such fines as he thinks fit, but not exceeding the following (that is to say):

	Rs.	c.
(*a*) For each elephant or buffalo	10	0
(*b*) For each calf, ass, pig, sheep, lamb, goat, or kid...	2	50
(*c*) For every head of cattle other than the above ...	5	0

Procedure if fine not paid.

75 If the amount of the fine be not paid within seven days from the time of impounding of any such head of cattle, together with the costs of its agistment, it shall be lawful for the forest officer to sell such head of cattle by public auction, and after deducting from the proceeds of such sale the amount of the fine, the costs of the agistment, and of such sale, such forest officer shall pay the surplus (if any) to the owner of the cattle.

CHAPTER IX.

Of Forest Officers.

Appointment of Conservator of Forests, &c
[§ *23, 1 of 1892*]

76 It shall be lawful for the Governor from time to time to appoint a *Conservator of Forests*, and such other officers as are required for the purposes of this Ordinance, and there shall be paid to such *Conservator* and officers such salaries as the Governor, with the advice and consent of the Legislative Council, may from time to time determine.

Every government agent and assistant government agent and every conservator of forests and every forest officer authorized in writing under the hand of the Governor on that behalf shall possess, for the purposes of this Ordinance, the following powers (that is to say) :

Powers of government agent, &c.

(*a*) The powers of commissioners appointed under the provisions of Ordinance No. 9 of 1872, to compel the attendance of witnesses and the production of documents ; provided that the requirements of the proviso to section 2 of such Ordinance shall not be necessary for the purposes of this Ordinance ;

(*b*) Power to issue search warrants under the Code of Criminal Procedure ;

(*c*) Power to hold inquiries into forest offences, and in the course of such inquiries to receive and record evidence ;

(*d*) Power to notify seasons and manner in which fire may be kindled, kept, or carried in a reserved forest ;

(*e*) Power to grant any permission referred to in sections 28, 35, 40, or 44 ;

(*f*) Power to give public notice of timber collected under section 51 ;

(*g*) Power to take possession of property under this Ordinance ;

(*h*) Power to direct the release of property or withdrawal of charges ;

(*i*) Power to accept compensation for forest offences ;

and the Governor may withdraw any powers so conferred by him.

Any evidence recorded under clause (*c*) of this section shall be admissible in any subsequent trial before a magistrate of the alleged offender : Provided that it has been taken in the presence of the accused person, and recorded in the manner provided by law.

Forest officers deemed public servants.

77 All forest officers shall be deemed to be public servants within the meaning of the Ceylon Penal Code.

Indemnity for acts done in good faith.

78 No suit or criminal prosecution shall lie against any public servant for anything done in good faith or omitted by him in good faith under this Ordinance.

Forest officers not to trade.

79 Except with the permission in writing of the Governor, no forest officer shall, as principal or agent, trade in timber or forest produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest.

Control of forests may be delegated to Conservator.

[§ 25, 1 of 1892]

79 (1) The Governor may by notification in the *Government Gazette* declare any reserved forest to be solely under the control of the Conservator of Forests, and may authorize such Conservator to exercise in respect of such reserved forest all or any of the powers and duties vested in and imposed on the government agent hereunder, subject to such restrictions as the Governor in Executive Council may from time to time think fit to impose.

CHAPTER X.

Miscellaneous.

Additional powers to make rules.

80 The Governor may make regulations consistent with this Ordinance—

(*a*) To declare by what forest officer or class of forest officers the powers or duties conferred or imposed by or under this Ordinance on a forest officer shall be exercised or performed;

(*b*) To regulate the procedure of forest settlement officers;

(*c*) To regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Ordinance or from the public Treasury; and

(*d*) Generally to carry out the provisions of this Ordinance.

Rules when to have force of law.

81 All regulations or rules made or approved by the Governor, with the advice of the Executive Council, under this Ordinance shall be published in the *Gazette*, and shall thereupon have the force of law.

Powers of Governor exercisable from time to time.

All powers conferred by this Ordinance on the Governor may be exercised from time to time as occasion requires.

Persons bound to assist forest officer and police officer.

82 Every person who exercises any right in a reserved forest or a village forest, or who is permitted to take any forest produce from, or to cut and remove timber, or to pasture cattle, or to practise chena cultivation in, such forest, and—

Every person who is employed by any such person in such forest; and

Every person in any village contiguous to such forest who is employed by the Crown, or who receives emoluments from the Crown for services to be performed to the community;

shall be bound to furnish without unnecessary delay to the nearest forest officer or police officer any information he may possess respecting the occurrence of a fire in or near such forest, or the commission of, or intention to commit, any forest offence; and shall assist any forest officer, forest ranger, or police officer demanding his aid—

(*a*) In extinguishing any fire occurring in such forest;

(*b*) In preventing any fire which may occur in the vicinity of such forest from spreading to such forest;

(*c*) In preventing the commission in such forest of any forest offence; and

(*d*) When there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Recovery of money due to the Crown.

83 All money, other than fines, payable to the Crown under this Ordinance, or under any regulation or rule made hereunder, or on account of the price of any timber or forest produce, or of expenses incurred in the execution of this

Ordinance in respect of timber or forest produce, shall, if not paid when due, become a debt due to the Crown and be recovered under the provisions contained in the 88th, 89th, 90th, 91st, and 92nd sections of this Ordinance.

84 When any such money is payable for, or in respect of, any forest produce, the amount thereof shall be deemed to be a first charge on such produce; and such produce may be taken possession of by a forest officer empowered by the government agent in this behalf, and may be retained by him until such amount has been paid.

Lien on forest produce for such money.

If such amount is not paid when due, such forest officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

Power to sell such produce.

The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Crown.

85 The Crown shall not be responsible for any loss or damage which may occur in respect of any timber while at a station established under a regulation made under section 44, or while detained elsewhere for the purposes of this Ordinance, or in respect of any timber collected under section 51; and no forest officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously, or fraudulently.

The Crown not liable for loss or damage in respect of certain timber.

87 It shall be lawful for the government agent or assistant government agent or forest officer to sell by public auction any forest produce or property seized under the provisions of this Ordinance, and, except where express provision for the application of the proceeds of sale has been made in this or any other Ordinance, the proceeds of such sale shall be paid into the kachchéri and form part of the public revenue of the colony.

Property seized may be sold.

88 It shall be lawful for the government agent to seize any property whatsoever belonging to the person by whom any debt is due to the Crown, under the provisions of *section 83* of this Ordinance, wheresoever the same may be found within the province of such government agent, and if the amount due in respect of such debt and the costs and charges of seizure be not sooner paid or tendered, to sell the property so seized by public auction at any time not less then ten or more than thirty days from the time of such seizure.

Property of Crown debtors under section 83 may be sold.
[§ *24, 1 of 1892*]

89 In the event of a sale of property seized, the government agent at whose instance such seizure was made shall, after deducting the amount due by the debtor and also the costs and charges attending the seizure and sale (which said costs and charges such government agent is hereby authorized to retain), restore the overplus arising from such sale, if any there be, to the owner of the property sold.

Overplus to be restored to owner.

90 If land or other immovable property be sold under the provisions of this Ordinance, a certificate substantially in the form given in schedule C hereto annexed, signed by the government agent, shall vest such property absolutely in the

Certificate of sale of immovable property.

purchaser free from all encumbrances. Such certificate shall be liable to the stamp duty for the time being fixed on conveyances of immovable property and to registration fees, such duty and charges being payable by the purchaser.

Certificate of sale in case of purchase by Crown.

91 If the land so sold be purchased by the government agent, who is hereby authorized to bid for and purchase the same on behalf of the Crown, a certificate substantially in the form given in schedule D hereto annexed, signed by the government agent, shall vest the property absolutely in the Crown free from all incumbrances. Provided that such certificate shall not be liable to stamp duty nor other fees.

Crown may take credit for amount due from defaulter.

92 Whenever the Crown purchases any land under the provisions of the last preceding section, the Crown shall not be required to pay the whole of the purchase money of such land, but shall be entitled to take credit for the amount due from the defaulter under this Ordinance. Provided that in the event of the land sold realizing a less sum than the amount due, nothing herein contained shall preclude the Crown from instituting any civil action or process against the defaulter for the recovery of the balance due by him after deducting the purchase money realized by the sale of the land.

Regulations and rules to be laid before Legislative Council.

93 All regulations and rules under this Ordinance made and approved by the Governor, with the advice of the Executive Council, shall be laid before the Legislative Council within one month of the commencement of the session next after the making of such regulations or approval of such rules, and shall cease to have any force or effect if disapproved by the Council within two months of being so laid on the table.

SCHEDULE A.

(Section 35.)

Sinhalese Name.	*Tamil Name.*	*Botanical Name.*
Buruta (Satinwood)	Mutirai	Chloroxylon Swietenia, *DC.*
Halmílla ..	Savandalai ...	Berrya Ammonilla, *Roxb.*
Kaluwara (Ebony)...	Karuṇkáli ...	Diospyros Ebenum, *Koen.*
Kalumediriya (Calamander)	Pú-karuṇkali ...	Diospyros quæsita, *Thw.*, and D. oppositifolia, *Thw.*
Kína (of the hill-country)	— ...	Calophyllum Walkeri, *Wight.*
Kína (of the low-country)	— ...	Calophyllum tomentosum, *Wight.*
Lunumidella ...	Malai-vémpu ...	Melia dubia, *Cav.*
Mendóra ...	— ...	Vatica Roxburghiana, *Bl.*, and V. affinis, *Thw.*
Mendóra (Uva) ...	— ...	Hopea (?) cordifolia, *Trim.*
Mílla	Káddá-manákku ...	Vitex altissima, *L. f.*
Nedun	— ...	Pericopsis Mooniana, *Thw.*
Palu	Pálai	Mimusops hexandra, *Roxb.*
Tala	Kandapanna ...	Corypha umbraculifera, *L.*
Tammana ...	Tampanai ...	Mischodon zeylanicus, *Thw.*
Tékka (Teak) ...	Tékku	Tectona grandis, *L.*
Wal-sapu or Wal-buruta	— ...	Michelia nilagirica, *Zenk.*
Yávarana or Wewa-rana	Ránai	Persea semecarpifolia, *Nees.*

SCHEDULE B.

(Section 39.)

Siṅhalese Name.	*Tamil Name.*	*Botanical Name.*
Araḷu	Kadukkái ..	Terminalia Chebula, *Retz.*
Bakmí	Vammi	Sarcocephalus cordatus, *Miq.*
Bómbu	Elumpurukki ...	Symplocos spicata, *Roxb.*
Bó-mí	— ...	Litsæa sebifera, *Pers*
Buruta	Mutirai	Chloroxylon Swietenia, *DC.*
Dawaṭa	— ...	Carallia integerrima, *DC.*
Del	— ...	Artocarpus nobilis, *Thw.*
Doḍankaha or Weḷikaha	Manchavarná or Kattikaya	Memecylon capitellatum, *L.*
Domba	Punnai or Dommakkottai	Calophyllum Inophyllum, *L.*
Dún (of hill districts)	— ...	Doona zeylanica and D. Gardneri, *Thw.*
Dún (of dry districts)	Tumpálai ...	Vatica obscura, *Trim.*
Ḍheḷa	Tirukkondal or Tirukkondai or Kavani	Cassia Fistula, *L.*
Ḍtheraliya or Palaṇ	Konnai or Sarakondai	Kurrimia zeylanica, *Arn.*
Galmora (of low-country)	Morai or Káddumorai	Cryptocarya Wightiana, *Thw.**
Galsiyambalá ...	Káddupuḷi ...	Dialium ovoideum, *Thw.*
Goḍakaduru ...	Kánchúrai or Yeḍḍi	Strychnos Nux-vomica
Goḍapara ...	Pásu or Punalai ...	Dillenia retusa, *Thunb.*
Hal	— ...	Vateria acuminata, *Hayne.*
Halmilla or Halmilila	Savandalai ...	Berrya Ammonilla, *Thunb.*
Heḍawaka ...	Palakuna or Sadaivékku	Chætocarpus castanocarpus, *Thw.*
Homeḍiriya ...	Veḷḷai Karuṇkáli ...	Diospyros Thwaitesii, *Bedd.*
Hora	— ...	Dipterocarpus zeylanicus, *Thw.*
Hulanhik ...	Aglai or Kaloti ...	Chukrassia tabularis, *Juss.*
Kaḍumbériya ...	Vekkandai ...	Diospyros Gardneri, *Thw.*
Kalumeḍiriya ...	Púkaruṇkáli ...	Diospyros quæsita, *Thw.*, and D. oppositifolia, *Thw.*
Kaluwara ...	Kúruṇkali ...	Diospyros Ebenum, *Koen.*
Karawu ...	— ...	Phyllanthus indica, *Mull.*
Keṭakála ...	Perunkasaddai or Muḷḷuvénkai	Briedelia retusa, *Spr.*
Kirikóṇ ...	Chaḍavakku ...	Walsura piscidia, *Roxb.*
Kirihembiliya ...	— ...	Dichopsis grandis, *Benth*
Kína (of the low-country)	— ...	Calophyllum tomentosum, *Wight.*
Kína (of hill-country)	— ...	Calophyllum Walkeri, *Wight.*
Kohomba (Margosa)	Vémpu	Azadirachta indica, *A. Juss.*
Kóṇ	Kuḷá or Puvú ...	Schleichera trijuga, *Willd.*
Kos	Pilá	Artocarpus integrifolia, *L.*
Kumbuk ...	Marutu	Terminalia glabra, *W. et A.*
Liyaṇ	— ...	Homalium zeylanicum, *Benth.*
Luṇumidella ...	Malaivémpu ...	Melia dubia, *Cav.*
Máḍaṇ or Maha-daṇ...	Perunával or Nával...	Eugenia Jambolana, *Lam.*
Mará	Kona or Manchádi ...	Albizzia Lebbek, *Benth.*
Meṇḍóra ...	— ...	Vatica Roxburghiana, *Bl.*, and V. affinis, *Thw.*
Meṇḍóra (Uva) ...	— ...	Hopea (?) cordifolia, *Trim.*
Mílila or Mílla ...	Kaḍḍamanakku ...	Vitex altissima, *L. f.*
Mí	Iluppai	Bassia longifolia, *L.*
Mora	Nurai	Nephelium Longana, *Camb.*
Múnamal ...	Muchalai ...	Mimusops Elengi, *L.*

* Two other trees are called "Galmora" in the Kandyan and hill districts respectively.

Forests and Waste Lands.

Sinhalese Name.	*Tamil Name.*	*Botanical Name.*
Muruta	— ...	Lagerstrœmia Flos-Reginæ, *Retz.*
Ná	Náka	Mesua ferrea, *L.*
Nędun	— ...	Pericopsis Mooniana, *Thw.*
Nębeda	Maimaram or Minachchi	Vitex Leucoxylon, *L. f.*
Palu	Pálai	Mimusops hexandra, *Roxb.*
Pamburu ...	Kuruntu ...	Atalantia Missionis, *Oliv.*
Pannikasa or Tembiliya	Pandikáyán or Venkulikaya	Eugenia bracteata, *Roxb.*
[§ 20, 1 of 1893] *Pehimbiya* ...	— ...	*Filicium decipiens*, *Thw.*
Ruk	— ...	Myristica Horsefieldia, *Bl.*
Sapu	Senpakam, Makila or Vakulu, or Kanankay	Michelia Champaca, *L.*
Siyambala ...	Puli	Tamarindus indica, *L.*
Súriya	Púvarasu ...	Thespesia populnea, *Corr.*
Súriyamára ...	Ponnaimurankai ...	Albizzia odoratissima, *Benth.*
Tal (Palmirah) ...	Panai	Borassus flabelliformis, *L.*
Tala	Kandapanna ...	Corypha umbraculifera, *L.*
Tammana ...	Tampanai ...	Mischodon zeylanicus, *Thw.*
Tékka	Tékku	Tectona grandis, *L. f.*
Timbiri... ...	Panichchai ...	Diospyros Embryopteris, *Pers.*
Ubbériya ...	— ...	Carallia calycina, *Benth.*
Vadukunarí or Kunamella	Vedukkunári ...	Diospyros ovalifolia, *Wight.*
Walamba or Ętamba	Má	Mangifera zeylanica, *Hk. f.*
Walukína ...	— ...	Calophyllum bracteatum, *Wight.*
Wanamí ...	Malai Illuppai or Káddiluppai	Bassia fulva, *Bedd.*
Wewarana ...	Ránai	Persea semecarpifolia, *Nees.*
Wá	Vákai	Cassia siamea, *Lam.*
Welanga ...	Vinnanku ...	Pterospermum suberifolium, *Lam.*

SCHEDULE C.

(Section 90.)

Whereas the sum of rupees —— —— was due to the Crown under the provisions of the ——— section of Ordinance No. 10 of 1885, from ———, of ———, which said sum has not been paid by the said ———: And whereas the land ———, being the property of the said ———, was seized in conformity with the said Ordinance, and sold also in conformity therewith on the ——— day of ———, and the same was purchased by ———, of ———, for the sum of rupees ———, which has been duly paid by the said ———: Now know ye that I, ———, Government Agent of the ——— Province, by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (*here describe the property with special accuracy as to boundaries*), has been sold to and purchased by the said ——— for the sum of rupees ———, which he has duly paid, and that the said premises are and shall henceforward be vested in the said ———, his heirs, executors, administrators, and assigns, free of all incumbrances.

Given under my hand this ——— day of ———.

———

Government Agent.

SCHEDULE D.

(Section 91.)

Whereas the sum of rupees ——— was due to the Crown under the provisions of Ordinance No. 10 of 1885 from ———, of ———, which said sum has not been paid by the said ——— : And whereas the land ———, being the property of the said ———, was seized in conformity with the said Ordinance and sold also in conformity therewith on the ——— day of ———, and the same was purchased by ———, Government Agent, for and on behalf of our Sovereign Lady the Queen, for the sum of rupees ——— , which has been credited to our said Lady the Queen in part satisfaction (*or* full, *as the case may be*) of the sum of rupees ——— due to our said Lady the Queen : Now know ye that I, ———, Government Agent, by virtue and in exercise of the power vested in me in this behalf by the said Ordinance, do hereby certify that the following property, to wit (*here describe the property with special accuracy as to boundaries*), has been sold to and purchased by the said ———, Government Agent, for and on behalf of our said Lady the Queen, for the sum of rupees ———, which said sum has been duly credited to our said Lady the Queen as aforesaid, and that the said premises are and shall henceforward be vested in our said Lady the Queen, her heirs and successors, free of all incumbrances.

Given under my hand this ——— day of ———.

———

Government Agent.

21st February, 1885.

No. 11 of 1885.

An Ordinance to amend the Law relating to Inquiries into Sudden or Unnatural Deaths.

(*See chapter XIX. of No. 3 of 1883.*)

Preamble.

WHEREAS it is expedient to amend the law relating to inquiries into sudden or unnatural deaths: Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows:

Evidence taken in inquiries under section 195 of "The Criminal Procedure Code" may be taken down in the English, Sinhalese, or Tamil language.

1 Whenever an inquiry shall be made by a person appointed by the Governor under section 195 of "The Criminal Procedure Code, 1883," it shall be lawful for the person holding such inquiry to receive and record the evidence which may be given thereat, in the English, the Sinhalese, or the Tamil language, as he may, in the interests of justice, deem best.

Record of inquiry to be sent in first instance to police magistrate.

2 The record and detailed report of such inquiry when made shall be forwarded by the person who shall have held the inquiry to the police magistrate of the district in which such inquiry shall have taken place, anything in section 192 of "The Criminal Procedure Code, 1883," to the contrary notwithstanding, and such police magistrate shall, if necessary, cause a translation of the report to be made in the English language, and shall forward the record together with the translation thereof (if any) to the Attorney-General.

Person holding inquiry may issue warrant for arrest of suspected party.

3 Any person holding an inquiry as aforesaid may exercise any of the powers conferred upon a police magistrate under sections 161, 162, 163, 164, 165, 166, 167, and the first paragraph of section 168 of "The Criminal Procedure Code, 1883," as well as any of the powers so conferred under sections 187, 188, 189, 190, and 191 of the said Code. Provided that if the person holding the inquiry is of opinion at the conclusion thereof that there are sufficient grounds for further proceedings against an accused party, he shall cause such accused party to be taken before the police magistrate, to whom shall be forwarded the report of the proceedings of the inquiry.

Householders to attend on notice.

4 The three respectable householders of the district who are to be associated with the person holding inquiry, shall attend for such purpose upon receiving notice from the person appointed to hold such inquiries that their attendance is required, and they shall at the conclusion of the inquiry record their opinion on the evidence given. Provided that the person holding the inquiry shall not be bound by such opinions.

Police magistrate to transmit report to Attorney-General, if he considers no further evidence necessary.

5 The police magistrate to whom the report of any investigation held under this Ordinance may be sent, or before whom a suspected party may be brought, shall, if he is of opinion that no further evidence is necessary, remand the party arrested, and transmit the report to the Attorney-General, who may exercise in respect thereof any of the powers conferred on him by chapters XVI. and XX. of "The Criminal Procedure Code, 1883."

Police magistrate may hold inquiry under chapter XVII. of "Criminal Procedure Code" in addition to previous inquiry, or proceed at once to hold inquiry under chapter XVI.

6 Should the police magistrate on receiving such report consider further inquiry necessary, he may hold an inquiry into the cause of the death in question in addition to the investigation held by the person appointed under section 195 of "The Criminal Procedure Code," and, if he does so, he shall do so in accordance with the provisions of chapter XVII. of "The Criminal Procedure Code, 1883," or, if the police magistrate on receipt of such report shall have reason to believe that any person has committed an offence cognizable before a superior court, such police magistrate may at once deal with such person under the provisions of chapter XVI. of the said Code.

Persons appointed under section 195 of "Criminal Procedure Code" to be deemed public officers

7 Persons appointed to hold inquiries under section 195 of "The Criminal Procedure Code, 1883," shall be deemed public servants within the meaning of that term as defined in "The Ceylon Penal Code."

Ordinance to be read with "The Criminal Procedure Code, 1883."

8 This Ordinance shall be read and construed as one Ordinance with "The Criminal Procedure Code, 1883," except in so far as the provisions of the said Code are inconsistent herewith.

21st February, 1885.

No. 12 of 1885.

An Ordinance authorizing the Legislative Council, by Resolution, to establish Tolls, and the Governor in Executive Council, by Resolution, to abolish Tolls and to alter the places where Tolls shall be collected.

(See No. 14 of 1867.)

Preamble.

WHEREAS it is expedient to authorize and empower the Legislative Council of this colony, by means of resolutions passed by the said Council, to establish tolls in respect of any public road, bridge, ferry, or canal in this island: And whereas it is also expedient to authorize and empower the Governor in Executive Council, by resolution, to abolish any tolls and to alter the places at which tolls shall be collected: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Legislative Council may by resolutions establish tolls.

1 From and after the passing of this Ordinance it shall be lawful for the Legislative Council of the island of Ceylon, by means of any resolution duly passed at any public session of the said Council, to establish tolls in respect of any public road, bridge, ferry, or canal in this island, anything which may be contained in "The Toll Ordinance, 1867," to the contrary notwithstanding.

Provisions of existing Toll Ordinance to apply.

2 When tolls shall be so established by any resolution of the Legislative Council, the provisions of the Ordinance No. 14 of 1867 and of the Ordinance No. 9 of 1871 shall, in so far as they may not be repugnant to this Ordinance, apply thereto.

Governor in Executive Council may by resolution abolish and alter places for collecting tolls.

3 It shall be lawful for the Governor, acting with the advice of the Executive Council, by resolution to be notified in the *Government Gazette*—

(*a*) To abolish any existing tolls or any tolls which may hereafter be legally established; and

(*b*) To determine at what places tolls shall be collected, and to alter such places and other places to appoint for the collection thereof;

anything which may be contained in "The Toll Ordinance, 1867," to the contrary notwithstanding.

9th December, 1885.

No. 17 of 1885.

An Ordinance to amend the Public Thoroughfares Ordinance, No. 10 of 1861.

(*See No. 10 of 1861.*)

Preamble.

WHEREAS it is expedient to amend the Ordinance No. 10 of 1861, intituled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Section 9 of Ordinance No. 10 of 1861 to be read as herein amended.

1 From and after the passing of this Ordinance, section 9 of the Ordinance No. 10 of 1861 shall be read and construed as though the words "or canal" had been inserted in the said section before the words "be stopped up, diverted, or turned," and also before the words "so diverted or turned."

To be read with Ordinance No. 10 of 1861.

2 This Ordinance shall be read as one with Ordinance No. 10 of 1861, and may be cited as "The Public Thoroughfares Amendment Ordinance, 1885."

9th December, 1885.

No. 18 of 1885.

An Ordinance to amend the Ordinance No. 31 of 1884.

(*See No. 10 of 1861 and No. 31 of 1884.*)

Preamble.

WHEREAS section 57 of Ordinance No. 10 of 1861, intituled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony," was repealed by section 34 of Ordinance No. 31 of 1884, and, in consequence of such repeal, no provision exists at present for the payment of subsistence money to persons performing labour other than the double labour prescribed under section 14 and the increased labour under section 15 of the last-mentioned Ordinance: And whereas it is expedient that such provision shall be made: Be it enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

District road committee may provide subsistence money or food.

1 It shall be lawful for the district road committee, upon the application of any person who shall have failed to commute within the time mentioned in section 26 of Ordinance No. 31 of 1884, and who shall be engaged in performing labour pursuant to notice received by him under section 13 of the said Ordinance, or whenever such committee in their discretion may consider it necessary to do so, to provide such person, for every day that he may labour, with either subsistence money equal to one-half of the ordinary rate of a cooly's wages as paid in the district in which such labour shall be performed, or with food, according as

such committee may deem best; and any person who shall be so provided with subsistence money or food shall be liable to the performance of twelve consecutive days' labour, exclusive of Sundays, in the same year, and shall be subject to the provisions of sections 12 and 15 of Ordinance No. 31 of 1884.

2 This Ordinance shall be read and construed as one with Ordinance No. 10 of 1861 and Ordinance No. 31 of 1884.

To be read with Ordinance No. 10 of 1861 and No 31 of 1884.

9th December, 1885.

No. 19 of 1885.

An Ordinance exempting from Attachment, Sequestration, or Seizure in Execution the Salaries of Public Officers.

(*See Repealing Schedule to No. 2 of 1889.**)

Preamble.

WHEREAS it is expedient to exempt from attachment, sequestration, or seizure in execution the salaries of public officers, and for this purpose it is necessary to amend the Ordinance No. 4 of 1867, intituled "An Ordinance to amend and consolidate the Law relating to Fiscals and their Officers:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Partial repeal of section 34 of Ordinance No. 4 of 1867.

1 The provisions of section 34 of the said Ordinance, in so far as they relate to the salaries only and not to the pensions of public officers, are hereby repealed: Provided that such repeal shall not affect—

(*a*) The past operation of the said provisions of such section, nor anything done or suffered under them; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under the said provisions; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against the said provisions; nor

(*d*) Any legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

Salaries of public officers shall not be attached, sequestered, or seized in execution.

2 From and after the passing of this Ordinance it shall not be lawful for any creditor to attach, sequester, or seize in execution the salary of any public officer in the service of the Ceylon Government, whether such officer shall be present in or absent from the colony.

Public officer defined.

3 The term "public officer," as used in this Ordinance, shall mean and apply to every officer who is in the receipt of a salary from the Colonial Treasury.

9th December, 1885.

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* It seems doubtful whether the whole or any part of this Ordinance is conserved.

No. 20 of 1885.

(*As amended by No. 1 of 1890.*)

An Ordinance to consolidate and amend the Law providing for the granting of Pensions to Widows and Children of deceased Public Officers of this Colony.

Preamble.

WHEREAS it is expedient to consolidate and amend the law providing for the granting of pensions to the widows and children of deceased public officers of this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited as "The Widows' and Orphans' Pension Fund Ordinance, 1885."

Interpretation clause: "Public officer."

Not to extend to Mohammedans.

2 A "public officer" means, for the purposes of this Ordinance, an officer who is in the receipt from the Colonial Treasury of a salary of not less than two hundred and fifty rupees per annum: Provided that the provisions of this Ordinance shall not apply to any public officer who is by any law entitled to have more than one wife at any one time, nor to the widow and children of any such officer.

[§ 2, 1 of 1890]

2 (1) The definition of "public officer" shall be taken and construed to include officers borne on the provisional establishment of this colony, provided that they otherwise are within the terms of such definition.

"Pension."

[§ 3, 1 of 1890]

(2) The term "pension," whenever used in the sense of a pension on retiring from the public service, shall be taken and read as including "compassionate allowance" and "superannuation allowance."

Fund how constituted.

3 The fund already formed and now in existence under the provisions of Ordinance No. 15 of 1884, and the fund to be created under the provisions of this Ordinance, for providing pensions for widows and children of public officers of this colony, shall be consolidated together and called "The Widows' and Orphans' Fund."

Investment of fund.

4 All moneys belonging to the said fund, whether arising from past or future contributions, fines, interest, or otherwise, shall be invested with the Government of this colony, and shall bear interest payable by the said Government for ten years from the date* at which the said Ordinance No. 15 of 1884 came into operation, at the rate of six per cent. per annum free from any deduction, and such interest shall be made up on the thirty-first day of December in each year, and shall be calculated upon the mean monthly balance standing in the hands of the Treasurer to the credit of such fund during the course of the year.

Abatements from salaries.

5 From and after the date on which this Ordinance shall come into operation, an abatement of four per cent. shall be made from the salary of every public officer whose appointment† shall be subsequent to the passing of this Ordinance, and whose salary shall at any time amount to or exceed the

* 31st March, 1884. † See definition of "appointment" at page 404.

rate of two hundred and fifty rupees per annum; and a like abatement of four per cent. shall continue to be made as heretofore from the salary of every public officer who has hitherto been subject to such abatement under the provisions of sections 4 and 5 of Ordinance No. 15 of 1884.

Contributions to fund by officers appointed prior to passing of Ordinance No. 15 of 1884.

6 It shall be lawful for the directors of the fund, on or before the thirtieth June, 1886, to admit any public officer who shall have been appointed prior to the passing of Ordinance No. 15 of 1884 on an annual salary of two hundred and fifty rupees or more, and who at the date of the passing of this Ordinance shall still hold such appointment, to contribute towards the fund: Provided, however, that the admission of such officer shall be contingent on his forthwith, or by such instalments as the directors may determine, paying a sum equal to an abatement of four per cent. from his salary for the entire period during which he would have been subject to such abatement had he been originally admitted to contribute under the provisions of Ordinance No. 15 of 1884, together with interest, at the rate of six per cent. per annum, on such sum; and every such officer who may be so admitted to contribute shall be entitled to the same privileges, and shall be subject to the same conditions, in respect of the fund, as any public officer with regard to whom an abatement is made compulsory by this Ordinance.

Period for which abatement shall be made.

7 The abatement of four per cent. from the salary of a public officer shall continue to be made until such officer attains the age of sixty-five years, should he continue so long in the public service, at which date it shall cease; such abatement shall also cease after an officer has been subject to the abatement for this fund for thirty-five successive years.

Abatement payable by officer retired on a pension for service.

8 A public officer who has attained the age when he shall have acquired the right to retire from the public service, or who may be allowed to retire from the public service on account of ill-health before he attains the age at which he would otherwise be entitled to retire, or who may be deprived of the situation in respect of which he contributed to the fund, but who is entitled to retire on a pension, should he decide on retiring on a pension, shall not be called upon to make any further contribution to the fund beyond a monthly abatement from his pension of four per cent. on such pension, to commence from the date of his retirement, until he attains sixty-five years of age, or has been subject to abatement for thirty-five years, when such abatement shall cease.

Officer retiring and ceasing to contribute.

[§ 5, 1 of 1890]

9 A public officer who may retire from the public service, or who may be deprived of the situation in respect of which he contributed to the fund, but who shall not be granted a pension or compassionate or superannuation allowance, may continue to contribute to the fund from and after the date of his so retiring or being deprived of his situation, on the salary he was receiving at such date and at the same rate and subject to the same terms and conditions as if he had continued in the public service. In the event of his failing so to continue to contribute, or in the event of any contribution due from him being six months in arrears, it shall be considered that he has ceased to contribute to the fund, and his

widow or widow and children, as the case may be, shall be entitled on his death only to a pension computed on the basis of the interest acquired by such contributor in the fund at the date of his so retiring or being deprived of his situation, in accordance with the tables hereinafter referred to.

Provision for case of officers transferred to other employment under the Crown.

10 A public officer who has been transferred prior to the passing of this Ordinance, or who may hereafter be transferred from the service of the Government to other employment under the Crown, shall cease to contribute to the fund from and after the date of such transfer, but his widow or children, as the case may be, shall be entitled on his death to a pension computed on the basis of the interest acquired by such contributor in the fund at the date of his transfer, in accordance with the tables hereinafter referred to.

Payments to be made to Treasurer and carried to credit of fund, allowance of interest on sums at credit.

12 The abatement of four per cent. from the salaries of all public officers, whose salaries shall be subject to abatement, shall be made by the Treasurer in proper proportion upon each occasion of his paying the salary, or any portion thereof, and placed to the credit of the fund, and all other payments and contributions to the fund shall be made to the Treasurer and placed to the credit of the fund.

Appointment of directors of fund; directors to make annual report.

13 For the due and proper management of the fund, the Governor in Executive Council shall annually appoint five public officers as directors thereof (any three of whom shall be sufficient to form a quorum), who shall be eligible for re-appointment, and whose duty it shall be to superintend and direct the management and administration thereof, and to see that the laws and regulations relating thereto are duly fulfilled and complied with; and it shall further be the duty of the said directors annually, on or before the thirty-first day of January of each year, to prepare or cause to be prepared, for the information of the Governor and Legislative Council, a detailed statement and account of the fund for the year ending thirty-first December preceding, with such report on the state and prospect of the fund as such directors may deem necessary.

Provision for cost of management of fund.

14 A sum not exceeding five per cent. shall be deducted from the annual contributions to the fund for the purpose of defraying all expenses connected with the management and administration of the fund.

Registers of contributors to fund to be kept.

15 A register shall be kept of the age of every public officer contributing to the fund, and, if married, of the date of the marriage of such officer, and the age of his wife, and the ages of his children (if any).

Certain information to be furnished by officers

16 Every public officer who shall be admitted to contribute to the fund under the provisions of section 6 of this Ordinance, shall, if in the colony, within three months —or if abroad, within six months—from the date of his being so admitted to contribute, be bound to forward to the directors of the fund the dates of his birth, of his marriage (if married), and of the birth of his wife and of his children (if any), duly proved to the satisfaction of the directors by affidavit or otherwise.

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17 Every public officer whose salary or income is subject to abatement for the fund, and whose appointment shall be subsequent to the passing of this Ordinance, shall be bound, within six months after the date of his appointment, to furnish the directors with the date of his birth, the date of his marriage (if married), the date of his wife's birth, and the date of the birth of any child or children of such marriage, all duly proved to the satisfaction of the directors by affidavit or otherwise.

Officers hereafter appointed to furnish certain information.

18 Every public officer whose salary or income is subject to abatement for the fund, who shall marry after the passing of this Ordinance, or who, being married, shall obtain a divorce from his wife, shall be bound, within six months after his marriage or divorce, to notify the same to the directors, and, in case of marriage, the age of his wife duly proved as aforesaid.

Officer to notify his marriage.

19 Every public officer whose salary or income is subject to abatement for the fund, shall be bound to notify to the directors the birth of each legitimate child born to him within six months from the date of such child's birth, and the marriage of any female child under the age of twenty-one years within six months from the date of such child's marriage.

Officer to notify birth of child.

20 Every public officer whose salary or income is subject to abatement for the fund, shall be bound to notify to the directors, within six months from the date of the event, the death of his wife or any of his children.

Officer to notify death of wife or child.

21 Any public officer whom the directors may consider shall have failed or neglected to comply with any of the requirements aforesaid, or who shall, in the opinion of the directors, have given any false information in relation thereto, shall be liable to a fine for each default not exceeding fifty rupees, to be deducted from his salary or income by the Treasurer on an order to that effect by the directors of the fund, and to be placed to the credit of the fund.

Penalty for non-compliance with foregoing.

22 The widows and orphans who will be entitled to pensions from the fund are the widows and orphans of public officers who shall have contributed towards the fund in accordance with the conditions of this Ordinance, save as hereinafter excepted.

Who shall be entitled to pensions under this Ordinance.

23 No widow of a public officer who dies within one year from the date of marriage shall be entitled to a pension under the Ordinance, unless a lawful child is born of such marriage; and no child of any public officer born out of wedlock, but who by the laws of this colony has become or may become legitimate by subsequent marriage of the parents, shall be entitled to any pension or allowance from the fund.

Exceptions from benefits of fund.

24 The allowance or pension to orphans shall cease, in the case of males at eighteen years of age, and in the case of females at twenty-one years of age, or on marriage.

When pension to orphans shall cease.

Pensions to be computed according to tables approved by Governor and Executive Council.

25 The pension or allowance to which a widow or any child of a deceased public officer is entitled shall be computed in accordance with tables to be approved of by the Governor in Executive Council, such tables to be subject to revision and re-adjustment from time to time as the Governor and Executive Council may deem necessary.

Pensions payable to orphans.

26 When a public officer, a widower, dies, leaving a child or children entitled to pensions, or when a widow of a public officer dies and there be a child or children of such public officer then living whose ages would entitle them to pension, such pensions shall be as follows:—If three in number or less, each child shall receive one-fourth of the allowance to which the wife of the officer would have been entitled had she survived him, or which the widow had been in receipt of after his death; if more than three, then the amount which the wife or widow would have received or had been receiving shall be divided equally among the children.

Provision in case of widow marrying.

27 The widow of a public officer receiving a pension from the fund, who marries again, shall forfeit all claim to any further pension from the date of her second marriage, and if there are any children of the first marriage whose ages would entitle them to a pension, such children shall be entitled to the same rate of pension as if both parents were dead.

Provision in case of children by a former marriage.

28 When a public officer dies leaving a widow and also children by a previous marriage whose ages entitle them to pensions from the fund, such children, if three or more in number, shall be entitled to one-half of the pension to which their mother, if she had survived their father, would have been entitled; if two children, to one-third; and if only one child, to one-fourth; and the widow to one-half of the pension to which she would have been entitled had there been no such children; but if there are no such children, or when they cease to be entitled to pensions, then the widow shall be entitled to her full pension. Should the stepmother of such children die leaving no lawful issue by such officer, such children shall be entitled to pensions as if their father had not married a second time; should the stepmother of such children die leaving lawful children, such children shall have the pension which their mother was entitled to equally divided among them.

What proof to be produced before payment of pensions.

29 Widows and orphans entitled to pensions from the fund, and residing out of the colony, must produce proof, to the satisfaction of the directors, of their being alive, and entitled thereto, before their pensions can be paid.

Pensions not to be assigned or levied upon.

30 No pensions payable from the fund shall be assignable or transferable, nor shall any pension payable from the fund be attached, arrested, or levied upon for or in respect of any debt or claim due by the recipient of such pensions.

Questions or disputes to be decided by

31 Should any question or dispute arise as to who is entitled to contribute to the fund, or as to the right of a widow or child to a pension from the fund, or as to the amount of

such pension, all such questions and disputes shall be referred by the directors of the fund to the Governor in Executive Council for decision, and such decision shall be final.

Executive Council.

32 The pension payable to a widow or child or children under this Ordinance shall (except where the public officer dies within one year from the date of marriage, and there shall be no lawful child born of such marriage either before or after the death of such officer) commence upon the death of the husband or father, or mother or stepmother, as the case may be, shall accrue daily, and shall be paid monthly clear of any deduction until re-marriage or death of the widow, or until the cesser of eligibility in the case of children.

Pension to commence upon death of officer.

33 No widow of a public officer whose marriage was contracted after her husband had completed his thirty-five years of contribution, or had attained the age of sixty-five or had retired on pension, and no issue of such marriage, shall be eligible for any pension under this Ordinance.

Widow not entitled to pension if marriage contracted after husband's completion of thirty-five years' contribution.

34 No pension to which a widow or child or children may become entitled under this Ordinance shall exceed the sum of three thousand rupees per annum, provided that no public officer shall be compelled to pay any contributions beyond such as would bring up the pension to which a widow or child or children might be entitled to such maximum amount.

Pension not to exceed three thousand rupees.

35 No pension, whether payable to a widow or child or children, shall be increased or abated by reason of the person entitled to receive the same residing in a climate less or more healthy than that of Ceylon.

No increase of pension if residing in climate less or more healthy than Ceylon.

36 Fifty per cent. of the contributions made by a bachelor shall be returned, but without interest, upon the retirement, unmarried, of such officer from the public service on pension, but not otherwise.

Bachelor's contribution to be returned on retirement.

36 (1) Upon the retirement on pension of a public officer who is a bachelor, such officer shall not be called upon to make any further contribution to "The Widows' and Orphans' Fund," and his interest in the said fund shall upon such retirement cease and determine, subject, however, to the right reserved to him by section 36 to receive fifty per cent. of his past contributions.

Bachelors retiring on pension to cease to contribute.

[§ 6, *1 of 1890*]

37 Should the official income of a public officer become reduced either by abatement of the ordinary emoluments or by the grant of a permanent superannuation allowance, such public officer may, should he so desire it, and upon his giving notice in writing to the directors of his desire to do so, continue his rate of contribution for the remainder of the thirty-five years, or until he shall attain the age of sixty-five, according to the full amount of contribution hitherto paid by him, in which case his widow or child or children shall be entitled to pension accordingly; but if such public officer only continues to contribute at the rate of four per cent. on his retiring allowance, any pension to his widow or child or children shall become diminished in the same amount as it would have been increased had such public officer's official income been raised instead of being lowered.

Contributions may continue in full if income reduced.

Appointment of actuary.

38 On the thirty-first day of December of the tenth year following the original establishment of the fund, under Ordinance No. 15 of 1884 (or so soon after as possible, and quinquennially thereafter), an actuary or actuaries to be appointed by the Governor in Executive Council shall make an investigation of the fund, and report in full as to its working, its results as compared with the estimates upon which it was based, its financial position, and whether any, and if so, what, re-adjustment of the benefits or contributions are considered necessary.

Pensions to be subject to re-adjustment according to finances.

39 All pensions contemplated by this Ordinance, whether in possession or reversion, shall be from time to time subject to re-adjustment according as the financial condition of the fund may after such investigation and report as is referred to in the next preceding section be found to be necessary and be determined upon by the Governor in Executive Council.

Directors may make rules and regulations.

40 It shall be lawful for the directors appointed under this Ordinance to frame rules and regulations not inconsistent therewith for the proper carrying out of the provisions of this Ordinance, provided that all such rules and regulations shall be approved of by the Governor in Executive Council, and shall be published in the *Government Gazette.*

Repeal.

41 The Ordinance No. 15 of 1884 and the Ordinance No. 37 of 1884 are hereby repealed; provided that such repeal shall not affect—

(*a*) The past operation of anything duly done or suffered under the said Ordinances hereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred thereunder; nor

(*c*) Any penalty or forfeiture incurred in respect of any breach of the provisions of the said Ordinances hereby repealed; nor

(*d*) Any legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, or forfeiture as aforesaid.

Commencement of Ordinance.

42 This Ordinance shall come into operation on a day to be fixed by the Governor by Proclamation* to be for that purpose published in the *Government Gazette.*

"Appointment." [§ 4, 1 of 1890]

43 The term "appointment" in section 5 shall mean appointment whether original or by way of promotion; and all public officers who, upon their promotion, have heretofore contributed to "The Widows' and Orphans' Fund" shall be taken and deemed to have lawfully so contributed within the true intent and meaning of the said Ordinance.

11th December, 1885.

* Proclaimed the 1st day of April, 1886.

No. 24 of 1885.

An Ordinance to empower the Ceylon Government to borrow a sum of Three hundred thousand Rupees from the Ceylon Savings Bank, for the Construction, Repair, and Improvement of Irrigation Works in this Island.

Preamble

WHEREAS by section 23 of "The Ceylon Savings Bank Ordinance, 1859," it is enacted that the several sums which shall from time to time be deposited in the Ceylon Savings Bank may be laid out at interest by the trustees thereof in securities of the Government of this island: And whereas it is expedient for the Ceylon Government to borrow from the said trustees of the said bank, upon the security of the general revenue of this colony, a sum not exceeding three hundred thousand rupees, for the construction, repair, and improvement of certain irrigation works known as Kaláwęwa and Yódi-ęla: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Authority to Governor to borrow three hundred thousand rupees from Savings Bank for irrigation works.

1 It shall be lawful to the Governor in Executive Council, anything in the Ordinance No. 19 of 1884 to the contrary notwithstanding, to borrow from the trustees of the Ceylon Savings Bank, for the construction, repair, and improvement of the said irrigation works in this island, any sum or sums of money not exceeding three hundred thousand rupees in all, upon one or more writings obligatory in the form contained in the schedule hereto annexed, signed by the Governor under the public seal of this colony; and the amount so borrowed, and the interest thereon at the rate of four and a half per centum per annum, shall be and the same are hereby charged on and made payable out of the general revenue of this island.

Governor to issue warrant for payment of annuity on account of principal and interest.

2 It shall be lawful to the Governor to issue his warrant upon the Colonial Treasury for the payment to the trustees of the Ceylon Savings Bank of an annuity of not less than twenty thousand rupees to be by them appropriated in liquidation, firstly, of the interest, and, secondly, of the principal sums from time to time remaining unpaid, until the entire amount of the said loan, together with all interest due thereon, shall have been paid and satisfied.

When first warrant shall issue.

Trustees to endorse receipt of money on writings obligatory.

3 The first of such warrants shall be issued by the Governor at the expiration of one year from the date of the first writing obligatory herein provided; and the trustees of the Ceylon Savings Bank shall endorse the receipt by them of the amount of each such warrant upon the said writing or writings obligatory, specifying the sum appropriated by them on account of principal and the sum appropriated by them on account of interest.

Appropriation of money borrowed.

4 The money borrowed under the authority of this Ordinance shall be applied to the construction, repair, and improvement of the said irrigation works in this island, and to no other purpose.

SCHEDULE.

Form of Writing Obligatory.

The Government of Ceylon hereby binds itself to the trustees of the Ceylon Savings Bank in the principal sum of rupees ———, being money borrowed under the authority of Ordinance No. 24 of 1885, intituled "An Ordinance to authorize the Ceylon Government to borrow a sum of Three hundred thousand Rupees, for the Construction, Repair, and Improvement of the said Irrigation Works in this Island," which said principal sum, together with interest thereon at the rate of four and a half per cent. per annum, shall be repaid to the trustees of the Ceylon Savings Bank by the Government of Ceylon in manner provided by the said Ordinance.

Colombo, ———, 18 —. Governor.

8th January, 1886.

No. 26 of 1885.

An Ordinance relating to the Ceylon Railways.

(*See No. 24 of 1865.*)

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Ceylon railways and to the conveyance thereby of passengers and goods: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.
Commencement.

1 This Ordinance may be cited as "The Ceylon Railways Ordinance, 1885;" and it shall come into operation at such time as the Governor shall by Proclamation,* to be published in the *Government Gazette*, appoint.

Repeal of Ordinances No. 10 of 1865, No. 12 of 1871, No. 5 of 1872, No. 3 of 1874, No. 9 of 1877, No. 10 of 1878, No. 2 of 1881.

2 The Ordinances specified in schedule A to this Ordinance are hereby repealed; provided that such repeal shall not affect—

(*a*) The past operation of any enactment hereby repealed; nor

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; nor

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(*d*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Ordinance had not passed.

Interpretation clause
"Railway."

3 For the purposes of this Ordinance, the expression "railway" shall include all railways already constructed, or in course of construction, or to be hereafter constructed, by or on behalf of the Ceylon Government; and the expression

* Proclaimed the 8th day of January, 1886.

"railway official" shall include the General Manager, the assistant managers, traffic superintendents, and all such officers, servants, agents, and other persons as shall be from time to time employed to do any act upon the railway.

"Railway official."

4 The Governor may appoint a fit and proper person to execute the duties and powers hereinafter mentioned, who shall be called "The General Manager," and one or more persons, as he may deem necessary, to assist the General Manager in the execution of the said duties and powers, who shall be called "assistant managers," and such clerks and other officers as to him may appear necessary. And all duties and powers hereinafter required to be performed and exercised by the General Manager shall and may be performed and exercised by any assistant manager.

General and assistant managers, clerks, and other officers.

5 The Governor may from time to time, with the advice of the Executive Council, make, and when made, revoke, add to, and alter rules regulating the classification of goods, the goods that are to be charged for at special rates, the charges to be made for the conveyance of passengers and goods by the railway, and regarding all other matters not specially enacted by this Ordinance, and necessary to provide, in every respect, for the management and due and profitable working of the railway. Provided that the charges for the conveyance of passengers and goods at rates other than special shall in no case exceed the rates specified in schedule B hereto annexed. Provided further, that if in any detailed classifications of goods sanctioned by the Governor, with the advice aforesaid, special provision be made for any articles which are deemed exceptional, such provision shall prevail and be of force, anything in the schedule B to the contrary notwithstanding.

Rules.

6 A copy of any rule or rules made under the authority of the 5th section may be hung up and affixed and continued on the front or other conspicuous part of every railway station, and knowledge of the contents of such rule or rules shall be presumed as against any person using the railway, upon proof that such copy was hung up, affixed, and continued as herein required.

Rules to be affixed publicly in railway stations, and persons using the railway legally presumed to be acquainted with them

7 All rules which are in force at the coming into operation of this Ordinance, and which are not inconsistent with any of its provisions, shall continue to be in force until revoked, added to, or altered in manner hereinbefore provided.

Existing rules to continue in force until superseded.

8 No person shall enter any carriage used on the railway, for the purpose of travelling therein, without having first paid his fare and obtained a ticket. Every person desirous of travelling on the railway shall, upon payment of his fare, be furnished with a ticket specifying the class of carriage for, and the station from, and the station to, which the fare has been paid, and shall, when required, show his ticket to any railway official duly authorized to examine the same, and shall deliver up such ticket upon demand to any of the railway officials duly authorized to collect tickets. Any person not producing or delivering up his ticket as aforesaid shall be liable to pay

Fares to be prepaid

Passenger tickets to be given up on demand.

the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

Fare and freight to be accepted conditionally.

9 The fare or freight paid for the conveyance of passengers or goods respectively shall be deemed to be accepted only upon condition that there be room in the train. In case there shall not be room for all the passengers or goods, those passengers who shall have obtained tickets for the longest distance shall have the preference, and those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets; and the like order shall be observed as to goods. Provided that all officers and troops of Her Majesty on duty, and all other persons travelling on the business of Government, shall be entitled to be conveyed on the railway in preference to, or in priority over, the public, without reference to the distance for which, or the order in which, they shall have received their tickets.

Penalty for fraud.

10 Any person who shall defraud or attempt to defraud the Government by travelling or attempting to travel upon the railway, without having previously paid his fare; or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare; or by continuing his journey in or upon any of the carriages beyond the station for which he shall have paid his fare, without having previously either paid the fare for the additional distance, or obtained the sanction of the station master or guard of the train; or who shall knowingly and wilfully refuse or neglect, on arriving at the station to which he shall have paid his fare, to quit such carriage and railway premises; or who shall transfer or profit by the transfer of the return half of any ticket obtained by him, or who shall, in any other manner whatever, attempt to evade the payment of his fare, shall be liable to a fine not exceeding fifty rupees for each offence.

Fine for entering carriage in motion, or riding on the steps.

11 Any passenger who shall get into or upon, or attempt to get into or upon, or shall quit or attempt to quit any carriage upon the railway, while such carriage is in motion; or who shall ride or attempt to ride upon the railway on the steps or any other part of a carriage, except on those parts which are intended for the accommodation of passengers, shall be liable to a fine not exceeding twenty rupees for each offence.

Fine for riding on engine, tender, or luggage van.

12 Any person other than the engineman and fireman, and assistant fireman, if any, who, without the special license of the General Manager or Locomotive Engineer, shall ride, or attempt to ride upon any locomotive engine or tender upon the railway; and any person other than the guard or brakesman, who, without special permission of the General Manager or Traffic Superintendent, shall ride or attempt to ride upon the railway in or upon any luggage van or goods wagon, or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding fifty rupees for each offence.

13 If any person shall smoke, or shall chew betel, bhang, tobacco, opium, or other like substance, either on the premises or in or upon any of the carriages belonging to the railway, except in places or carriages which may be specially provided for the purpose, he shall be liable to a fine not exceeding twenty rupees for each offence; and if any person persist in infringing this regulation, after being warned to desist by any of the railway officials or passengers, such person, in addition to incurring the liability above mentioned, may be removed by any such official from any such carriage, and from the premises appertaining to the railway, and shall forfeit his fare.

Smoking, &c., and chewing of betel prohibited.

14 Any person who shall be in a state of intoxication, or be insufficiently or indecently clad, or who shall commit any nuisance or act of indecency in any railway carriage, or upon any part of the premises appertaining to the railway, or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on the railway, shall be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding three months, or to both; and, in addition to such liability, the offender may be removed by any of the railway officials from any such carriage, and also from the premises appertaining to the railway, and shall forfeit his fare.

Penalty for intoxication or nuisance.

15 If any special carriage or portion of a carriage, or any private room or apartment, shall be provided for the exclusive use of females, any male person who, without lawful excuse, shall enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or shall remain therein after having been informed of its exclusive appropriation, or if any passenger of one class shall knowingly and wilfully refuse or neglect to leave rooms or places set apart for passengers of higher classes, shall be liable to a fine not exceeding one hundred rupees, and may be removed therefrom, and also from the premises appertaining to the railway, by any of the railway officials, and shall forfeit his fare.

Penalty for entering private room or carriage

16 The Government shall in no case be liable for loss or injury to any articles or goods to be carried by the railway, unless such loss or injury shall have been caused by negligence or misconduct on the part of their agents or servants, and unless the articles or goods in respect of which compensation is claimed shall have been booked and paid for in conformity with this Ordinance or the rules and regulations in that behalf provided.

Liability for goods lost, destroyed, or injured.

17 If any person shall fail to pay on demand any sum due for the conveyance of any goods, it shall be lawful for the General Manager to detain all or any part of such goods, or, if the same shall have been removed from the premises appertaining to the railway, any other goods of such person which shall then be on their premises, or shall thereafter come into their possession; and also, after reasonable notice to such person, to sell by public auction sufficient of such

Remedy for non-payment of the carriage of goods.

goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale, and out of the proceeds of the sale to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold, to the person entitled thereto; or the General Manager may recover any such sum by action at law. The goods of passengers may also be detained, sold, and the proceeds disposed of as above provided for non-payment of the fare due by them.

Remedy for non-payment of freight and fare.

Written account of goods to be given on demand.

18 The owner or person having the care of any goods which shall have been carried upon the railway, or shall be brought to the premises appertaining to the railway for the purpose of being carried on the railway, shall, on demand by any railway official, deliver to such official an exact account in writing, signed by him, of the number or quantity and description of such goods. This provision shall not apply to passengers' luggage.

Penalty for giving no account, or false account.

19 If any such owner or person as aforesaid shall, on demand by any such railway official as aforesaid, fail to give such account to such railway official, or if he shall wilfully give a false account thereof, he shall, for every such offence, be liable to a fine not exceeding fifty rupees for every ton of goods, and to a fine not exceeding twenty rupees for any quantity of goods less than a ton.

Carriage of goods of a dangerous nature.

20 No person shall carry upon the railway any dangerous article, or be entitled to require any railway official to carry upon the railway any article which, in the judgment of any of the railway officials, shall be of a dangerous nature, or so bulky that it would be unsafe for the railway to convey the same; and if any person shall carry upon the railway any dangerous article, or shall deliver to such railway official any such article for the purpose of being carried upon the railway, without distinctly marking their nature on the outside of the package containing the same, and likewise giving notice in writing of the nature thereof to the station master or other railway official to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding two hundred rupees for every such offence; and it shall be lawful for the railway officials to refuse to carry any luggage or parcel that they may suspect to contain articles of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same; and in case any such luggage or parcel shall be received by the railway officials for the purpose of being carried on the railway, it shall be lawful for any railway official to stop the transit thereof until he shall be satisfied as to the nature of the contents of the luggage or parcel.

Persons afflicted with smallpox, &c., not allowed to travel.

21 If any person afflicted with smallpox or other contagious disease shall travel by the railway, he shall be guilty of an offence, and liable to a fine not exceeding fifty rupees;

and if any person, whilst travelling, be discovered to be so afflicted, it shall be lawful for any railway official to remove him from the carriage and from the railway premises at the first opportunity.

Penalty for removing stakes, or pegs, or defacing marks.

22 Any person who shall remove any stakes, or pegs, or other marks placed by any railway official or by any surveyor or his servants or agents along the line of any railway already constructed, or any other line which may be hereafter undertaken with the sanction of the Government, or contiguous thereto, for the purpose of setting out, tracing, or showing such line, shall be liable to a fine not exceeding fifty rupees.

Penalty for trespass.

23 Any person who shall trespass upon the railway, or upon any of the lands, stations, or other premises appertaining to the railway, shall be liable to a fine not exceeding twenty rupees; and if any such person shall refuse to leave the railway or premises on being requested to do so by any railway official, or by any other person on his behalf, he shall be liable to a fine not exceeding fifty rupees, and may be immediately removed from the railway or premises by such officer or other person as aforesaid.

Penalty for driving an animal upon or across the railway.

24 Any person who shall wilfully ride, lead, or drive upon or across the railway any animal, except in directly crossing the railway at any road or place appointed for that purpose, at a time at which he shall be lawfully authorized so to do, shall be liable to a fine not exceeding fifty rupees for each offence.

Precaution if railway cross road.

25 If the railway cross any public carriage road (not defined to be an occupation crossing as hereinafter provided) on a level, the General Manager shall, when the line is open for traffic, cause to be erected and maintained good and efficient gates, either across the railway or across the road on each side of the railway where the same shall communicate with the road, and shall employ proper persons to open and shut such gates. If such gates be across the road, they shall be kept constantly closed, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the railway; and the gates shall be of such dimensions and so constructed as when closed to fence in the railway, and prevent persons, cattle, or horses passing along the road from entering upon the railway. If the gates be across the railway, they shall be kept closed, except when engines or carriages passing along the railway shall have occasion to cross the road, and shall be of such dimensions, and so constructed as when open to fence in the railway, and prevent persons, cattle, or carriages from entering upon the railway: Provided that it shall be lawful for the Governor, in any case, to order that the gates shall be across the road or across the railway, as the Governor may think fit, and in such case the gates shall be erected, maintained, and closed accordingly. If the General Manager shall wilfully fail to comply with the provisions of this section, he shall be liable to a fine not exceeding two hundred rupees for each offence;

Proviso.

and any police magistrate may, in case any such gates be not erected or maintained, order the General Manager to cause the same to be erected and maintained within a time to be specified in the order; and in case of wilful failure on his part to comply with such order, he shall be liable to a fine not exceeding two hundred rupees for every day that he shall wilfully fail so to do.

Occupation crossings.

26 It shall be lawful for the Governor from time to time to declare by Proclamation any road or path which the railway may cross to be an "occupation crossing," and such Proclamation to alter, vary, or repeal. The gates of occupation crossings are not to close across the railway, and are to be kept locked by means of padlocks, the keys of which shall be kept by railway officials or others authorized thereto by the General Manager. Any person desiring to use the same must give such notice of his intention to do so, as the Governor shall from time to time require, to the station master of the nearest station, or such other person as the General Manager may from time to time appoint, to allow of arrangements being made for the opening of the gates with safety to the public. The General Manager will define from time to time the hours suitable for such openings, and the gates can only be opened at the hours so defined by him. Cattle passing over the occupation crossing must not be driven, but led by a suitable and properly secured halter. Any person using or attempting to use an occupation crossing without such notice as aforesaid, or at hours other than those defined as aforesaid, and any person causing cattle to cross without such halter as aforesaid, and the owner of any cattle so crossing, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, not exceeding three months.

Liability of owner of animal trespassing.

27 The owner of any animal which shall trespass or stray upon the railway or upon any lands appertaining to the railway, shall be liable to a fine not exceeding ten rupees for each animal; and it shall be lawful for any railway official, or his servants or agents, to take or drive every animal which shall be found so trespassing to the nearest police station, there to be detained until the highest amount of fine incurred by such trespass, and the expense of feeding and keeping the animal, be paid, or until a police magistrate shall otherwise order. A police magistrate may, upon proof of the trespass, cause such animal to be sold by public auction, and the proceeds of the sale—after deducting therefrom such fine or such a sum not exceeding ten rupees for each animal, as the magistrate shall award, to be paid in lieu of the fine to which the owner is hereby made liable, and such further sum as the magistrate shall order to be paid for the expenses of detaining, feeding, and selling such animal—shall be returned to the owner of the animal on demand.

Penalty for injury to carriage, &c.

28 Any person who shall unlawfully and wilfully remove or deface the number-plates, or remove or extinguish any lamp on any carriage or signal-post belonging to the railway; or shall wilfully imitate any railway signal; or shall

wilfully or negligently damage or injure any carriage, engine, wagon, truck, station, warehouse, bridge, building, machine, rail-points, fence, or any other matter or thing belonging to the railway, shall be liable to a fine not exceeding two hundred rupees.

Penalty for opening or not properly shutting gates.

29 If any person for whose use or accommodation any gate shall have been set up by any railway official, on either side of the railway, or any other person shall open such gate, or pass, or attempt to pass, or drive, or attempt to drive any cattle, carriage, or other animal or thing across the railway, at a time when any engine or train approaching along the same shall be in sight; or shall at any time omit to shut and fasten such gate as soon as he and any cattle, carriage, or other animal or thing under his charge, shall have passed through the same, he shall be liable to a fine not exceeding one hundred rupees.

Obstructing engine or carriages, or endangering safety of passengers.

30 If any person shall wilfully and maliciously put, place, cast, or throw upon or across the railway any wood, stone, or matter, or thing, or shall wilfully and maliciously take up, remove, or displace any rail, sleeper, or matter, or thing belonging to the railway, or shall wilfully and maliciously turn, move, or divert any points or other machinery belonging to the railway, or shall wilfully and maliciously make or show, hide or remove, any signal or light upon or near the railway, or shall wilfully or maliciously do or cause to be done any other matter or thing with intent, in any of the cases aforesaid, to upset, obstruct, overthrow, injure, or destroy any engine, tender, carriage, or truck used upon the railway, or to endanger the safety of any persons travelling or being upon the railway, or cast, throw, or cause to fall or strike against, into, or upon any engine, tender, carriage, or truck used upon the railway, any wood, stone, or other matter or thing, with intent to endanger the safety of any person being in or upon such engine, tender, carriage, or truck, every such offender shall be guilty of an offence, and, being convicted thereof, shall be liable, at the discretion of the court, to corporal punishment not exceeding fifty lashes, or fine not exceeding one thousand rupees, or imprisonment, with or without hard labour, for any period not exceeding twenty years, or to any two or more of those punishments.

Penalty for wilful act or omission endangering a passenger.

31 Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause, the safety of any person travelling or being upon the railway to be endangered, shall be liable to corporal punishment not exceeding twenty lashes, or to fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding seven years, or to any two or more of those punishments.

Penalty for drunkenness or breach of duty by railway official.

32 Any railway official who shall be in a state of intoxication whilst actually employed upon the railway, or any of the works connected therewith, in the discharge of any duty, and any railway official who negligently shall omit to perform his duty, or shall perform the same in an improper manner,

shall be liable to a fine not exceeding fifty rupees; and if the duty in any of the cases in this section above mentioned be such, that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon the railway, such official shall, on conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding one year, or to fine not exceeding two hundred rupees, or to both.

Penalty for an act not wilful.

33 If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger his own safety or that of any person travelling or being upon the railway, he shall, upon conviction, be liable to imprisonment, with or without hard labour, for a term not exceeding six months, or to fine not exceeding one hundred rupees, or to both.

Breach of rules.

34 If any person shall wilfully do any act, or wilfully omit to do any act, contrary to the provisions of the rules sanctioned by the Governor, with the advice of the Executive Council, as already provided, he shall be guilty of an offence, and be liable on conviction to a fine not exceeding twenty rupees.

Penalty for false certificate.

35 Every person who shall give a false or untrue certificate as to coolies forming gangs with intent to defraud or to entitle them to the low rate of fare allowed to gangs of coolies by the schedule A, shall be guilty of an offence, and be liable on conviction to a fine not exceeding one hundred rupees.

Apprehension of offenders.

36 Every person who shall be guilty of any offence mentioned in this Ordiuance may be lawfully apprehended, without any warrant or written authority, by any railway official or by any other person whom such railway official shall call to his aid, or by any police officer, anything in "The Criminal Procedure Code, 1883," to the contrary notwithstanding; and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a police magistrate to be dealt with according to law.

Rules for the construction of the Ordinance.

37 In the construction of this Ordinance, every railway official shall be deemed to be legally bound to do everything necessary for, or conducive to, the safety of the public, which he shall be required to do by this Ordinance, or by any rule which shall be made by the Governor, with the advice of the Executive Council, and of which rule such official shall have notice; and every such official shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such rule he shall be prohibited from doing.

Jurisdiction of magistrates.

38 For the purposes of this Ordinance, the police magistrates of Colombo, Kandy, Kalutara, Pánaduré, Mátalé, Gampola, Hatton, Nuwara Eliya, and also any other police magistrate who may hereafter be specially authorized thereto by Proclamation issued by the Governor, with the advice of the Executive Council, shall respectively have jurisdiction

over all offences, acts, matters, and things hereby made cognizable by police courts, although such magistrates may otherwise have no jurisdiction in the place where the offence was committed, or where the act, matter, or thing took place.

Case may be tried before police courts, though otherwise out of their jurisdiction.

39 And whereas the punishments assigned to certain offences under this Ordinance are beyond the jurisdiction of police courts, but it would be frequently more advantageous that such offences should be brought for trial before such courts in order that the punishment of offenders may be more prompt, even though it should be less severe: It is therefore enacted that in case of any person committing an offence under this Ordinance, and which offence would not otherwise be cognizable by a police court by reason of the punishment to which the same is subject, and a certificate shall be presented to any police court signed by the Attorney-General or Solicitor-General, or by any Crown counsel, to the effect that such officer is content that such offence or act shall be prosecuted before such court, it shall be competent to such court to take cognizance of such offence or act, and to award in respect thereof so much of the punishment assigned thereto as police courts are empowered by law to award.

Punishment of children for breach of Ordinance.

40 And whereas many of the offences declared punishable by this Ordinance may be committed by children whom it would not be expedient to punish in manner herein provided: It is therefore enacted that it shall be competent to any police magistrate before whom any person under the age of sixteen years shall be convicted of any offence, to order the moderate chastisement of such person instead of subjecting him to the punishment prescribed by this Ordinance, and such chastisement shall be inflicted immediately if the magistrate shall so direct.

Enforcing payment of fare by passenger not producing ticket.

41 The payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under section 7 of this Ordinance, may be enforced in the same manner as any fine imposed by this Ordinance.

A copy and translation of Act to be shown at railway stations.

42 A copy of this Ordinance and of the rules, time-tables, and tariff of charges, which shall from time to time be duly made and published, shall be exhibited in some conspicuous place at each station of the railway, so that they may be easily seen and read; and all such documents shall be so exhibited in English and in the vernacular languages of the district in which the station is situate, and in such other language, if any, as shall be required by order of the Governor.

Penalty for removing documents or notices.

43 Any person who shall remove, deface, or in any way injure any document exhibited by the railway authorities as required by section 42, or any notice or document posted by them at the station or anywhere upon the railway, shall be guilty of an offence, and be liable to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for three months.

Rebate to be granted on freight.

44 It shall be lawful for the Governor, with the advice of the Executive Council, to grant to any company or person conveying by railway goods the freight on which shall exceed an average amount to be fixed from time to time by the Governor, with the advice aforesaid, such rebate as to him shall appear reasonable.

SCHEDULE A

(1) The Ordinance No. 10 of 1865, intituled "An Ordinance relating to the Ceylon Railway," save and except sections 19 and 31 thereof, which have already been repealed by "The Criminal Procedure Code, 1883;"

(2) The Ordinance No. 12 of 1871, intituled "An Ordinance to reduce the Minimum Rates fixed by Ordinance No. 10 of 1865 for Railway Passenger Fares;"

(3) The Ordinance No. 5 of 1872, intituled "An Ordinance to extend the provisions of the Ordinance No. 10 of 1865 to the Railway from Perádeniya to Náwalapiṭiya;"

(4) The Ordinance No. 3 of 1874, intituled "An Ordinance further to extend the provisions of the Ordinance No. 10 of 1865;"

(5) The Ordinance No. 9 of 1877, intituled "An Ordinance to reduce the Minimum Rates for Railway Passenger Fares on the Railway between Colombo and Pánaduré, and on the Railway now in course of construction between Pánaduré and Kalutara;"

(6) The Ordinance No. 10 of 1878, intituled "An Ordinance to make provision for the Traffic Rates to be charged in respect of Goods upon the proposed Line of Railway between Náwalapiṭiya and Nánu-oya;"

(7) The Ordinance No. 2 of 1881, intituled "An Ordinance to amend the Ordinance No. 10 of 1865, intituled 'An Ordinance relating to the Ceylon Railway.'"

SCHEDULE B.

Rate of Railway Fares.

Passengers.

1st class, not exceeding 17 cents per mile.
2nd class, not exceeding 8 cents per mile.
3rd class, not exceeding 3 cents per mile.

Detachments of pioneers of any nationality, or gangs of coolies of not less than six in number, each pioneer or cooly $1\frac{1}{10}$ cent per mile. Provided that no detachment or gang shall be conveyed at the rate aforesaid unless upon the production of a certificate from the importer of such coolies, or from the manager of the estate or work from or to which they are going, that such pioneers or coolies have been employed, or are about to be employed, on the said estate or work. Children of pioneers or coolies in gangs to be charged as adults. The minimum fare of pioneers and coolies' gangs shall be twenty-five cents each.

Reductions to be made for children and for return or periodical tickets. The right of reduction in the case of children must be determinable either by age or height, as shall from time to time be provided for by the rules.

Goods.

1st class from 16 cents to 59 cents per ton per mile.
2nd class from 12 cents to 44 cents per ton per mile.
3rd class from 4 cents to 25 cents per ton per mile.

Special rates to be charged for live stock, corpses, specie, plate, carriages, firearms, machinery, and for articles exceeding three tons in weight or measuring more than 200 cubic feet, or 20 ft. in length, and gunpowder, vitriol, lucifer matches, and other articles which, in the judgment of any of the railway officials, may be of a dangerous nature.

As respects goods, the fractional part of half a hundredweight shall be reckoned as half a hundredweight.

Articles not herein enumerated to be charged according to any of the above classes, or at special rates, according to the provisions to be made from time to time in the rules and regulations.

The minimum distance on which a mileage charge shall be made is ten miles.

Special trains or reserved accommodation shall be charged for at special rates.

Goods of the third class in quantities less than four tons, to be charged at second class rates, or as four tons.

Demurrage, insurance on valuable articles, warehouse, loading, and like charges, shall be made in addition to the above rates, which apply only to the carriage of goods.

As respects goods and passengers, the fractional part of a cent will be charged as a cent, and the fractional part of a mile will be charged as a mile.

Definitions of Classes.

CLASS 1.—Furniture, pianos or other musical instruments, wine or other liquors in bottle, groceries, oilmanstores, millinery, textile fabrics, glassware, crockery, meat, fish, and game.

CLASS 2.—Coffee, rice, grain of all kinds in bags or packages or in bulk, oil, wine or other liquid in cask, jute, horns, jaggery, sugar, cocoanuts, tobacco, cinnamon, vegetables, plants, seed and agricultural produce generally, refined salt and saltpetre, bales of cotton cordage, machinery not included in special rates, manufactured metals, coir matting, castings, soap, hardware, tools, and agricultural implements.

CLASS 3.—Coke, coal, minerals, building materials, unworked metals, manure, and firewood.

8th January, 1886.

No. 1 of 1886.

An Ordinance relating to Youthful Offenders.

(*See No. 24 of 1890, section 10, sub-section 2.*)

WHEREAS it is expedient to provide for the due punishment and reformation of youthful offenders, and to establish reformatory and industrial schools for their benefit: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance may be cited as "The Youthful Offenders' Ordinance, 1886;" Short title.

Commencement.

And it shall come into operation only in such circuits, districts, or divisions of the island defined for the purposes of the administration of justice, and at such time or respective times, as the Governor in Executive Council shall, by Proclamation published in the *Government Gazette*, from time to time or at any time appoint. It shall be lawful for the Governor in Executive Council such Proclamation from time to time, in like manner, to revoke or amend.

Repeal.

2 There shall be repealed as from and after the date of this Ordinance coming into operation in any circuit, district, or division proclaimed as aforesaid—

(*a*) Section 392 of "The Criminal Procedure Code, 1883;" and

(*b*) So much of "The Ceylon Penal Code" and of "The Criminal Procedure Code, 1883," as is inconsistent with this Ordinance.

Interpretation clause

3 In this Ordinance, unless the context otherwise requires—

"Youthful offender" shall include any boy or girl who, in the absence of legal proof to the contrary, is, in the opinion of the court before which such offender shall be convicted of any offence punishable by fine or imprisonment, above the age of seven and under the age of sixteen years;

"Industrial training" shall mean actual employment in agriculture, or training in some branch of useful industry;

"Manager" shall include the manager of any reformatory school established by Government, and the director, manager, superintendent, or other person who shall have the management or control of any certified industrial school;

"Certified industrial school" shall mean any school or institution certified by the Governor under this Ordinance;

"Reformatory school" shall mean any school established by Government under the provisions and for the purposes of this Ordinance;

"Visitor" shall mean any visitor of a reformatory or certified industrial school appointed by the Governor under section 16.

Certified Industrial Schools.

Governor may certify industrial schools.

4 The Governor in Executive Council may, upon the application of the manager of any school in which industrial training is provided, and in which children are fed, clothed, and lodged, as well as taught, direct such person as he may appoint to examine and report to him upon its condition and regulations, and, if satisfied therewith, may grant a certificate under his hand, and thenceforth the school shall be a certified industrial school within the meaning of this Ordinance.

5 It shall be lawful for the manager of such certified school to make all necessary rules, orders, and by-laws not repugnant to the provisions of this Ordinance, for the regulation and management of the institution under his charge; but no such rules, orders, or by-laws shall be enforced until they have been submitted to and approved of by the Governor in Executive Council.

Manager may make rules subject to the approval of the Governor in Council.

6 The Governor shall direct a report of the condition and regulations of any certified industrial school to be made to him at least once in each year by such person as he may appoint; and if after his report the Governor in Executive Council is dissatisfied with the condition or regulations of the school, he may withdraw his certificate, and upon notice in writing of such withdrawal having been given to the manager thereof, the school shall cease to be a certified industrial school from such time as shall be specified in the notice.

Governor may withdraw his certificate.

7 The manager of any certified industrial school may, upon giving six months', and the executor or administrator of a deceased manager may upon giving one month's, previous notice in writing of his intention so to do, resign the certificate given to such school; and, accordingly, at the expiration of six months or one month, as the case may be, from the date of the notice (unless before that time the notice is withdrawn) the certificate shall be deemed to be resigned.

Manager or his executor or administrator may resign certificate.

8 The manager of a certified industrial school may decline to receive any youthful offender proposed to be sent to him under this Ordinance, but when he has once received him shall be deemed to have undertaken to educate, clothe, lodge, and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate takes effect, or until the contribution by Government towards the custody and maintenance of the offender detained in the school is discontinued, whichever shall first happen.

Privilege and liability of managers.

9 Whenever the certificate is withdrawn from, or resigned by, the manager of a certified industrial school, no youthful offender shall be received into such school after the date of the receipt by the manager of the school of the notice of withdrawal, or after the date of the notice of resignation, as the case may be; but the obligation of the manager to educate, clothe, lodge, and feed any youthful offender in the school at the respective dates aforesaid shall, excepting so far as the Governor may otherwise direct, be deemed to continue until the withdrawal or resignation of the certificate takes effect, or until the contribution by Government towards the custody and maintenance of the offender detained in the school is discontinued, whichever shall first happen.

Effect of withdrawal or resignation of certificate.

10 When the withdrawal or resignation of the certificate of an industrial school takes effect, the youthful offenders detained therein shall be, by the order of the Governor, either discharged or transferred to some other certified industrial school, or to a reformatory school.

When certificate withdrawn or resigned, Governor may transfer offenders to another certified or reformatory school, or discharge them

The grant, withdrawal, or resignation of certificate to be advertised in *Government Gazette*.

11 A notice of the grant of any certificate to an industrial school, or of the withdrawal or resignation of such certificate, shall within one month be advertised by order of the Governor in the *Government Gazette*.

Government Reformatory Schools.

Governor may establish reformatory schools.

12 It shall be lawful for the Governor from time to time, by Proclamation to be published in the *Government Gazette*, to establish one or more reformatory schools in this island for the reformation of youthful offenders of either sex, and any such Proclamation to amend or annul. Every such Proclamation shall specify the premises in which the reformatory school to which it refers shall be established, and shall state whether the same shall be used for male or female offenders, or both.

Any prison or part thereof may be declared a reformatory school.

13 It shall be lawful for the Governor in Executive Council to declare any existing or future prison, or part thereof, to be a reformatory school within the meaning and for the purposes of this Ordinance.

Governor may make regulations for reformatory schools.

14 It shall be lawful for the Governor in Executive Council from time to time to make, and when made revoke, add to, and alter regulations for the management of every reformatory school so established as aforesaid, and for the maintenance of order and discipline of the persons detained therein, as well as of the officers thereof; and all such regulations upon being published in the *Government Gazette* shall, in so far as they shall not be contrary to the provisions of this Ordinance, have the same force and effect as if they had been enacted herein.

Governor may appoint manager and other necessary officers to reformatory schools.

15 It shall be lawful for the Governor to appoint to every reformatory school a manager and such other officers, either male or female, and to allow to the said officers such remuneration as he shall think proper.

Visitors.

Visitors.

16 It shall be lawful for the Governor to appoint one or more fit and proper person or persons to be the visitor or visitors of any reformatory or certified industrial school, and every such visitor to remove and to appoint another in his stead.

Powers and duties of visitors.

Penalty for obstructing visitors having the right of inspection.

17 Every person so appointed shall be at liberty to enter at all times any such reformatory or certified industrial school, and to make such inquiries or examination therein as to him shall appear necessary, and also make such reports as may be required by the Governor; and any manager who shall at any time refuse admittance to any such visitor, or to any judge of the Supreme Court, or member of the Legislative Council, or to any district judge or police magistrate having jurisdiction in the district wherein such school is situated, or offer to him any hindrance or obstruction, shall be guilty of an offence, and liable to a fine not exceeding fifty rupees.

18 Every reformatory school and every certified industrial school shall be a lawful place of detention for such as are ordered to be detained therein, and shall be subject to be inspected and reported on as herein provided.

Reformatory and certified schools lawful places of detention.

Punishment of Youthful Offenders.

19 When any youthful offender is convicted before any criminal court of any offence punishable by fine or imprisonment, such court may, instead of awarding any term of imprisonment in default of payment of the fine or passing a sentence of imprisonment—

How court may deal with and punish a youthful offender.

(*a*) Order such offender to be discharged after due admonition, if the court shall think fit; or

May order his discharge.

(*b*) Order such offender to be delivered to his parent, or to his guardian or nearest adult relative, on such parent, guardian, or relative executing a bond with or without a surety or sureties as the court may require, that he will be responsible for the good behaviour of the offender for any period not exceeding twelve months; or

May deliver him to his parent or guardian on proper security.

(*c*) Order such offender, if a male, to be whipped with not more than twenty-five strokes of a light cane or rattan within the court premises and in the presence, if he desires to be present, of the parent or guardian of such offender; or

May order him to be whipped.

(*d*) Order such offender to be sent to a reformatory or certified industrial school, to be detained there for any period not less than two and not longer than five years, and not being in any case longer than until such offender shall have attained the age of eighteen years; or

May order him to be sent to a reformatory or certified school.

(*e*) Order such offender, if a male, and if, having regard to his age and all the circumstances of the case, it should appear expedient, to be whipped and also sent to a reformatory or certified industrial school as hereinbefore enacted.

May order him to be whipped and also sent to a reformatory or certified school.

The court before which a youthful offender is convicted may, in addition to, or instead of punishing such offender in manner provided in this section, inflict on his parent or guardian a fine not exceeding twenty rupees in any case in which such court, after summary inquiry, is satisfied that such parent or guardian has, by neglecting to take proper care or otherwise, conduced to the misconduct of such offender.

May fine the parent or guardian for conducing by neglect or otherwise to the misconduct of a youthful offender.

Provided that no parent or guardian shall be fined without his having had an opportunity of being heard, and (if he desires it) of adducing evidence, in his defence.

20 Whenever a bond executed under the preceding section for the good behaviour of a youthful offender shall be forfeited, the court by which the bond was accepted shall take proceedings thereon in manner provided in section 476 of "The Criminal Procedure Code, 1883."

Proceedings on forfeited security bond.

Governor may discharge or transfer offender from one school to another.

21 The Governor may at any time order any youthful offender to be discharged from any reformatory or certified industrial school, or to be removed from one school to another, but so that the whole period of detention originally allotted to the offender shall not be increased by such removal.

Placing Offenders out on License.

Placing offenders out on license.

22 The manager of a reformatory or certified industrial school may, subject to the approval of a visitor, at any time after the expiration of twelve months of the period of detention allotted to a youthful offender, by license under his hand, permit him to live with any trustworthy and respectable person named in the license willing to receive and take charge of him.

Period of license.

License may be renewed.

23 Any license so granted shall not be in force for more than three months, but may at any time before the expiration of such three months be renewed for a further period not exceeding three months, to commence from the expiration of the previous period of three months, and so from time to time until the youthful offender's period of detention is expired.

License may be revoked.

24 Any such license may also, subject to the approval of a visitor, be revoked by the manager of the school, by writing under his hand, at any time before the expiration of such period of three months, and thereupon the youthful offender to whom the license related may be required by the manager, by writing under his hand, to return to the school.

Period of license to be counted as part of the term of detention

Except when license is revoked for misconduct.

25 The time during which a youthful offender is absent from a certified industrial school in pursuance of a license shall, except when such license has been forfeited by his misconduct, be deemed to be part of the time of his detention in the school, and at the expiration of the time fixed by his license he shall be taken back to the school.

Penalty for escaping while under license.

26 Any youthful offender escaping from the person with whom he is placed in pursuance of a license, or refusing to return to the school at the expiration of the time fixed by his license or any renewal thereof, or when required to do so on the revocation of his license, shall be liable to be arrested in the same manner and shall be subject to the same penalty as if he had escaped from the school itself.

Power to Apprentice Offenders.

Power to apprentice offenders to any trade or calling, or to bind them as agricultural or domestic servants.

27 The manager of a reformatory or certified industrial school may, at any time after an offender has been placed out on license as aforesaid, if he shall have conducted himself well during his absence from the school, bind him, with his own consent and with the approval of a visitor, as an apprentice to any trade or calling, or as an agricultural or domestic servant, notwithstanding that his period of detention has not expired; and every such binding shall be valid and effectual to all intents.

28 Any person to whom any youthful offender shall have been bound as an apprentice or servant who shall ill-treat such apprentice or servant, or shall commit any breach or violation of the terms of his contract to the prejudice of such apprentice or servant, or who shall fail to give prompt information to the manager of the nearest reformatory or certified industrial school that such apprentice or servant has absconded, shall be liable on conviction to a fine not exceeding fifty rupees, or to rigorous or simple imprisonment for a term not exceeding three months, subject to the right of the Attorney-General to prosecute such person for any higher offence punishable under the laws of this colony.

Penalty on master for ill-treating, &c., apprentice or servant.

29 Any youthful offender who shall be bound as aforesaid, who absconds from the service of his master, shall be liable to arrest and punishment in the same manner as if he had escaped from a reformatory or certified industrial school.

Penalty for escaping while apprenticed or bound.

Expenses of Certified Industrial Schools.

30 The Governor in Executive Council may from time to time order the payment from the Colonial Treasury, out of moneys annually voted by the Legislative Council for the expenses of the administration of justice in this island, of such sums of money and upon such conditions as he may think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school, or towards the support of the youthful offenders therein detained, or towards the management of such school, or towards the establishment or building of a school intended to be a certified industrial school, or towards the purchase of any land required for the use of an existing certified industrial school, or for the site of any school intended to be a certified industrial school; provided that no payment for the alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, shall be ordered or made without the previous sanction and approval of the Legislative Council.

Governor may order contributions from Colonial Treasury for the building, altering, and enlarging of, or purchasing land for, certified schools.

Also for the support of offenders in and towards the management of such schools.

Purposes for which sanction of Legislative Council necessary

31 The Governor, or any person appointed by him in that behalf, may contract with the manager of any certified industrial school for the reception and maintenance therein of any youthful offender, in consideration of such payments as may be from time to time agreed on.

Governor may contract with managers of certified schools.

Maintenance.

32 In any case in which any youthful offender shall be detained in a reformatory or certified industrial school under the provisions of this Ordinance, the parent of such offender, or, if he is an orphan, the guardian or other person legally liable to maintain him, if able to pay for the whole or part of the cost of maintaining such offender at the said school, shall be bound to do so as hereinafter provided.

Parent or guardian liable to pay for maintenance of offender.

33 The rate of maintenance in reformatory or certified industrial schools shall be fixed by the Governor in Executive Council from time to time, and shall not at any time exceed three rupees per week.

Rate of maintenance to be fixed by Governor.

Youthful Offenders.

Proceedings to enforce maintenance.

Magistrate to issue order to show cause.

34 The police magistrate of the district in which the person liable to make the payment resides shall, on the application of any officer of police, or of any one authorized by the Governor to take proceedings in that behalf, issue an order on the said person to show cause why he should not pay for the maintenance of the youthful offender at the rate fixed under section 33 and named in such order.

Final order adjudging payment.

35 If the said person shall appear in answer to such order or if, in case of his absence, it be proved to the satisfaction of the police magistrate that the order was duly served on the said person, the magistrate shall summarily inquire into his circumstances, and if satisfied that he can pay the whole or any part of such cost of maintenance, shall pronounce an order according to the justice of the case, requiring such payment to be made into court.

Distress and sale of goods in the event of non-payment.

Magistrate may commit party in default of sufficient levy.

Party committed may be released on payment.

36 Every order as in the last preceding section provided may be enforced by warrant of the magistrate, directed to the fiscal to levy the amount therein specified by distress and sale of a sufficient quantity of the goods and chattels of the person against whom such warrant shall be issued. In case sufficient goods to meet the same and costs of distress and sale be not found, the magistrate shall commit the person named in the order to imprisonment for such period not exceeding fourteen days as the magistrate shall think proper. Provided that the said person shall be entitled to be released at any time during the imprisonment on payment of the arrears of expense of maintenance aforesaid, and of all the costs.

Governor may remit cost of maintenance wholly or in part.

37 The Governor shall have power to remit, wholly or in part, any payment ordered under section 35.

Offences in relation to Reformatory and certified Industrial Schools.

Offences in relation to reformatory and certified schools.

Breach of rules and school discipline.

38 Any youthful offender detained, as in this Ordinance provided, in any reformatory or certified industrial school, who shall wilfully neglect or wilfully refuse to conform to the rules thereof, or who shall be guilty of wilful insubordination against the discipline thereof, shall for every offence be punished in such manner as may be provided in the said rules, or as the manager, with the consent and approval of a visitor, shall think fit.

Escape from reformatory or certified school.

39 Any youthful offender detained in any reformatory or certified industrial school, who shall escape therefrom, may at any time before the expiration of his period of detention be apprehended without a warrant, and may be brought before the police magistrate having jurisdiction in the place where such offender is found, or where the school from which he escaped is situate, and he shall thereupon be liable on conviction to rigorous or simple imprisonment for a period not exceeding three months, and shall moreover (if not yet eighteen years of age) be ordered by the police court to return to such school and there complete his period of detention, provided that such person shall not be detained longer than until he shall have attained the age of eighteen years.

40 Any youthful offender who, during his period of detention in a reformatory or certified industrial school, shall commit any crime or offence against the laws of this colony, shall be prosecuted in the usual manner before the proper judge or magistrate on account of such offence. If found guilty, and sentenced to imprisonment on account thereof, he shall be ordered by such judge or magistrate to return to such school after the term of imprisonment shall have expired, and there complete his period of detention, provided that such offender shall not be detained in the school after he shall have attained the age of eighteen years.

Youthful offenders committing crimes and offences while in detention to be prosecuted in usual manner.

41 Every person—

(1) Who knowingly assists, directly or indirectly, any youthful offender legally detained in any reformatory or certified industrial school to escape therefrom;

(2) Who induces any such youthful offender to escape from any reformatory or certified industrial school;

(3) Who, knowing that any such youthful offender ordered to be detained as aforesaid has escaped from any such reformatory or certified industrial school, harbours or conceals, or assists in harbouring or concealing such offender, or causes or induces him not to return to such school;

shall be guilty of an offence, and be liable to a fine not exceeding two hundred rupees.

Penalties for assisting or inducing offenders to escape, and for harbouring or concealing escaped offenders.

42 It shall be lawful for the judge or magistrate, if he shall think proper, to order that any imprisonment adjudged under sections 39 and 40 of this Ordinance shall be incurred after the offender's period of detention in the reformatory or certified industrial school shall have terminated. In that case the said offender shall be forthwith returned to the said school, and the imprisonment aforesaid shall be incurred by him after the termination of his detention therein.

Offender's imprisonment may commence after period of detention in school has ceased.

43 The imprisonment to which a youthful offender is sentenced under any of the provisions hereinbefore mentioned shall be undergone in a prison of the colony, and in a ward thereof exclusively set apart with the authority of the Governor for youthful offenders, unless such imprisonment, or any part thereof, shall be undergone subsequent to the time at which the offender shall have attained the age of eighteen years.

Imprisonment of youthful offender to be in a prison ward set apart for that purpose.

44 If at the date of this Ordinance coming into operation in any circuit, district, or division as aforesaid, any youthful offender shall therein be undergoing imprisonment in any prison, it shall be lawful for the Governor to order such offender to be transferred from such prison to any reformatory or certified industrial school, and to be there detained for any period which shall be specified in such order. Provided that such offender shall not be liable to detention after he shall have attained the age of eighteen years.

Youthful offenders may be transferred from prison to reformatory or certified school by the Governor, at the coming into operation of this Ordinance.

Every order of the Governor to be in writing, and may be proved by a copy under the hand of the Colonial or Assistant Colonial Secretary.

45 Every order, authority, and direction which by any provision of this Ordinance may be given by the Governor shall be in writing; and a copy thereof under the hand of the Colonial Secretary, or of an Assistant Colonial Secretary for the time being, shall be held to be proof of the order, authority, or direction purporting to be contained therein until the contrary is shown.

Rules of evidence under this Ordinance

Warrant or order sending offender to reformatory or certified school.

46 The production of the warrant or other document in pursuance of which a youthful offender is directed to be sent to a reformatory or certified industrial school, with a statement endorsed thereon or annexed thereto purporting to be signed by the manager to the effect that the offender named therein was duly received into, and is at the date of the signing thereof detained in such school, or has been otherwise dealt with according to law, shall in all proceedings relating to such offender be *primâ facie* evidence of the identity, and of the due conviction and lawful detention or disposal of the offender named in such warrant or other document.

Grant, withdrawal, or resignation of certificate

47 The production of the *Government Gazette* containing a notice of the grant or withdrawal of the certificate by the Governor to or from an industrial school, or of the resignation of any such certificate, shall be sufficient evidence of the fact of the publication of such notice, and also the fact of a certificate having been duly granted to, or withdrawn from, the school named in the notice, or resigned by the manager thereof. The grant of a certificate to an industrial school may also be proved by the production of the certificate itself, or of a copy of the same purporting to be signed by the Colonial Secretary or any Assistant Colonial Secretary for the time being.

Rules of a reformatory or certified school

48 A copy of the rules of a reformatory or certified industrial school, purporting to be signed by the manager or a visitor thereof, shall be evidence of such rules in all legal proceedings whatever.

School to which offender is sent presumed to be a reformatory or certified school until contrary is shown.

49 A school to which any youthful offender is directed to be sent in pursuance of this Ordinance shall, until the contrary is proved, be deemed to be a reformatory school or a certified industrial school, within the meaning of this Ordinance.

Forms.

50 No summons, notice, or order made for the purpose of carrying into effect the provisions of this Ordinance shall be invalidated for want of form only; and the forms in the schedule to this Ordinance annexed, or forms to the like effect, may be used in the cases to which they refer, with such variations as circumstances require, and when used shall be deemed sufficient.

Rules for regulating periods of detention of youthful offenders.

51 The Governor in Executive Council may from time to time make rules consistent with this Ordinance for regulating the periods for which courts and magistrates may send youthful offenders to reformatory or certified industrial schools, according to their ages, the nature of their respective offences, or other considerations.

SCHEDULE.

A.—Warrant of Commitment to a Reformatory or Certified School.

To the Fiscal of the ——— Province, and to the Manager of the ——— School.

Whereas on the ——— day of ——— , 18 —, *A. B.*, a youthful offender, was in case No. ——— convicted before me of the offence of ———, under section ——— (*or* sections ———) of the Ceylon Penal Code (*or* of Ordinance No. ———), and in pursuance of "The Youthful Offenders' Ordinance, 1886," was sentenced to be sent to the said ——— school, and to be there detained for the period of ———:

This is to authorise and require you, the said fiscal, to receive the said youthful offender into your custody, and him safely convey to the said school, and there deliver him, together with this order, and you the said ——— (*Manager of the School*) are hereby further authorised and required (it appearing to me that you are willing to receive him therein) to receive the said youthful offender into your charge in the said school, and there to detain, educate, and train him for the said period of ——— ; and for so doing this warrant shall be your sufficient discharge.

Given under my hand at ———, this ———, day of ———. 18 —.

Signature ———.

B.—Bond for Good Behaviour by Parent or Guardian.

Whereas *A. B.*, a youthful offender, was on the ——— day of ———, 18 —, convicted of ———, and whereas I, ———, of ———, (parent *or* guardian) of the said *A.B.*, have, under the provisions of "The Youthful Offenders' Ordinance, 1886," been called upon to enter into a bond for the good behaviour to Her Majesty the Queen and all her subjects for the term of ——— of the said *A. B.*, I hereby bind myself and undertake to be responsible for the good behaviour to Her Majesty and all her subjects for the said term of the said *A. B.* : and in case of his making default therein, I bind myself to forfeit to Her Majesty the Queen the sum of rupees ———.

Dated this ——— day of ———, 18 —.

Signature ———.

Where a Bond with Sureties is to be executed, add—

We, ——— (*or* I, ———), do hereby declare ourselves (*or* myself) sureties (*or* surety) for the above-named ———, that the said ——— will be of good behaviour to Her Majesty the Queen and to all her subjects during the said term : and in case of his making default therein, we (*or* I) bind ourselves, jointly and severally (*or* myself), to forfeit to Her Majesty the Queen the sum of rupees ———.

C.—Form of Commitment on Forfeited Bond.

To the Fiscal of the ——— Province.

Whereas ——— has bound himself as a surety for the good behaviour of ———, who has therein made default, whereby the penalty mentioned in the said bond has been forfeited to Her Majesty the Queen: And whereas the said surety has, on due notice to him, failed to pay the said sum, or show any sufficient cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of any property of his, and an order has been made for his imprisonment in prison for ———:

This is to authorise and require you to receive the said ——— into your custody with this warrant, and him safely keep in prison for the said ———, and to return this warrant with an endorsement certifying the manner of its execution.

Given at ———, this ——— day of ———, 18—.

Signature ———.

D.—Order on Parent or Guardian to show cause why Maintenance should not be Paid.

To ——— of ———.

Whereas complaint has this day been made before me that one ———, a youthful offender, is now detained in the — —— school at ———, by virtue of an order of detention under "The Youthful Offenders' Ordinance, 1886," for the period of ———, and that you are the (parent *or* guardian) of the said youthful offender, and of sufficient ability to contribute to his support and maintenance:

This is therefore to command you in Her Majesty's name to be and appear on ———, at ——— o'clock in the forenoon, at ———, before me to answer to the said complaint, and show cause why an order should not be made on you so to contribute.

Dated this ——— day of ———, 18—.

Signature ———.

E.—Final Order for Payment.

Be it remembered that on this ——— day of ———, 18—, at ———, a certain complaint of ——— for that one (*state the nature of the complaint as in Form D*) was duly heard by and before me, in the presence and hearing of the said (*so, if defendant were present; if not,* "the said ——— not appearing to the summons duly issued and served on this behalf"), and I having duly examined into the ability of the said ———, and on consideration of all the circumstances of the case, do order the said ——— to pay into Court the sum of ——— per week from the date of this order until the ——— day of ———, the same to be paid (weekly *or* monthly).

Given at ———, this ——— day of ———, 18—.

Signature ———.

F.—Commitment for non-payment of Maintenance.

To the Fiscal of the ——— Province.

Whereas on the hearing of a complaint made by (*here set out the complaint as in Form D*) an order was made on the ——— day of ———, 18 —, by me against the said ——— to pay (*here set out the order as in Form E*), and whereas there is due upon the said order the sum of ———, and default has been made therein, and the said ——— has on due notice to him failed to pay the said sum or show any cause why payment should not be enforced against him, and the same cannot be recovered by attachment and sale of any property of his, and an order has been made for his imprisonment for ——— :

This is to authorise and require you to receive the said ——— into your custody with this warrant, and him safely to keep in prison for the said ———, and to return this warrant with an endorsement certifying the manner of its execution.

Dated this ——— day of ———, 18 —.

18th January, 1886.

No. 3 of 1886.

An Ordinance relating to Vessels carrying Passengers from any Port or Place in Ceylon to any other Port or Place in Ceylon.

(*See No. 8 of 1891.*)

WHEREAS it is expedient to provide regulations for licensing vessels carrying passengers from any port or place in Ceylon to any other port or place in Ceylon, and for securing the better safety and comfort of such passengers: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 In this Ordinance—

The word "vessel" shall mean every description of decked vessel of the registered burden of over fifteen tons used in navigation, but shall not apply to any vessel propelled partly or wholly by steam, carrying upon any voyage from any port or place in Ceylon to any other port or place in Ceylon more than four passengers; Interpretation clause: "vessel"

The word "master" or "tindal" includes every person (other than a pilot) having command or charge of a vessel; "master" "tindal"

The word "passenger" means a person above the age of twelve years, or two persons between the ages of one year and twelve years, but does not include a child under one year of age. "passenger"

Number of passengers to be carried in unlicensed vessel.

2 No vessel shall carry a greater number of passengers from any port or place in Ceylon to any other port or place in Ceylon than in the proportion of one passenger to every four tons of her registered burden without a license.

Number of passengers to be carried in licensed vessel.

3 Vessels may be licensed to carry passengers on any such voyage as aforesaid on the upper deck only, or both on upper deck and below it, in the following proportion and subject to the following conditions:—In the case of upper deck passengers, there shall be a clear space on deck of six superficial feet for each passenger; and in the case of below deck passengers, there shall be a clear space of eight superficial feet for each passenger on a deck or platform, or on the top of cargo or ballast, with not less than five feet clear between such deck, platform, cargo, or ballast and the upper deck. But no vessel shall be licensed as aforesaid unless provided with substantial bulwarks above the upper deck, and with suitable awnings to be spread whenever practicable, nor unless when carrying below deck passengers the required space for them is properly ventilated, and the cargo or ballast, in the absence of a deck or platform, is trimmed level and matted over.

Life-buoys and boats.

4 No vessel shall be licensed to carry passengers on any such voyage as aforesaid unless she is provided with two life-buoys; and also, according to her tonnage, with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than shall be required by the officer or other authorized person granting the license as hereinafter provided, anything which may be contained in the Merchant Shipping Ordinance, No. 7 of 1863, to the contrary notwithstanding; and such life-buoys and boats shall be kept so as to be at all times fit and ready for use.

Penalty on master of unlicensed vessel.

5 The master or tindal of any vessel which shall carry passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in the 2nd section of this Ordinance, shall be liable to a fine not exceeding twenty rupees for each passenger in excess of such proportion.

Penalty on master of licensed vessel.

6 The master or tindal of any licensed vessel which shall carry on any such voyage a greater number of passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, or who shall knowingly receive or allow to come on board such vessel a greater number of passengers than is specified in the license, intending to proceed to sea with such passengers on any such voyage, shall be liable for any such offence to a fine not exceeding twenty rupees for each passenger in excess of such number, or for each passenger who is not provided with accommodation agreeably to the license.

Penalty in respect of life-buoys and boats.

7 If any vessel hereinbefore required to be provided with life-buoys or boats shall proceed on any such voyage without being provided therewith; or if any of such life-buoys or boats are lost or rendered unfit for service in the

course of the voyage through the wilful fault or negligence of the owner or master ; or if, in case of any of such life-buoys or boats being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity ; or if such life-buoys and boats are not kept so as to be at all times fit and ready for use ; then, in any such case, if the owner is in fault, he shall incur a penalty not exceeding five hundred rupees, and if the master is in fault, he shall incur a penalty not exceeding one hundred rupees.

Government to appoint ports or places for shipment of passengers when the number of passengers to be carried is greater than one to every four tons of burden.

8 Passengers in a greater number than one passenger to every four tons of the burden of any vessel shall not be shipped except from such ports or places as shall be from time to time appointed by the Governor, by any order published in the *Government Gazette;* and the master or tindal of any vessel who shall take on board passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above mentioned, shall be liable to a fine not exceeding twenty rupees for each passenger embarked.

Grant of license to vessels.

9 It shall be at the discretion of the collectors of customs or such other persons as the Governor may from time to time appoint for the purpose to grant licenses to vessels under this Ordinance. The license shall describe the vessel, her tonnage and rig, the number of her life-buoys, boats, anchors, and cables, also the name of the owner and of the master or tindal, and the number of the crew, and shall specify the number of passengers she may carry and the space to be assigned for their accommodation ; Provided if any doubts shall arise whether any vessel about to proceed with passengers as aforesaid is seaworthy, so as to be fit for her intended voyage, and such doubts shall not be removed to the satisfaction of the collector of customs or such other person appointed by the Governor as aforesaid at the port or place from which such vessel is to be cleared out, it shall be lawful for such collector or other person to cause such vessel to be surveyed by such person as shall be appointed by the Governor for that purpose, and if it shall be reported by such surveyor that such vessel is not seaworthy with reference to such voyage, such vessel shall not be cleared out until such vessel shall have been rendered seaworthy.

Supply of provisions on board passenger vessels plying coastwise.

10 The master or tindal of any vessel licensed to carry passengers who shall proceed on any such voyage without having laid in a supply of water and provisions for the passengers, according to a scale to be fixed by the collector of customs or such other person as the Governor may from time to time appoint for the purpose, and of which scale such master or tindal shall have had notice, shall be liable to a fine not exceeding one hundred rupees.

List of passengers to be signed by master.

11 The master or tindal of any vessel licensed to carry passengers as hereinbefore provided shall sign and deliver, in duplicate, to the principal officer of customs at the place of embarkation, or to such other person as the Governor

may from time to time appoint for the purpose, a list substantially in the form A contained in the schedule to this Ordinance, of all passengers to be conveyed in such vessel, and such officer or other person, after satisfying himself of the correctness of the same, and that the number of passengers authorized is not exceeded, shall countersign and return one such list to the master or tindal, to be produced to the proper officer or person at the port or place to which the vessel is bound; and should any additional passengers engage to proceed by such vessel after such list has been so countersigned, the master or tindal may insert their number in the original list, obtaining the signature of the controlling officer or person as before. The officer in charge of the customs may withhold the port clearance till this provision is complied with.

Additional passengers.

Penalty for impeding entry or inspection.

12 The principal officer in charge of the customs at the place of embarkation, or any person authorized by him or by the Governor, shall be at liberty at all times to enter and inspect any passenger vessel and the fittings, provisions, and stores therein, and to muster the passengers and crew, and whoever impedes such entry, inspection, or muster, or refuses to allow the same, shall be liable to a fine not exceeding fifty rupees.

Penalty on landing passengers at a place other than at which he has contracted to land.

13 If any passenger in any vessel shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea, or other unavoidable accident, the master shall for each offence be liable to a penalty not exceeding two hundred rupees.

Passenger's right of action preserved.

14 Nothing in this Ordinance contained shall take away or abridge any right of action which may accrue to any passenger or to any other person in respect of the breach or non-performance of any contract made with the master or owner of the vessel or his agent.

Adjudication of offences and recovery of penalties.

15 Any offence against this Ordinance, though the same may be beyond the jurisdiction of a police court by reason of the amount of punishment to which the offender is liable, shall and may nevertheless be inquired into, tried, and punished by the police court of the district in which the offence was committed, wholly or in part, or where the offender is found; and any fine imposed on the master or tindal of any vessel for a breach of this Ordinance may be recovered from the owner of such vessel or from his agent; and if the person directed to pay any penalty is the master or tindal of a vessel, and the same is not paid at the time and in the manner prescribed by the order of payment, the court ordering such payment may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said vessel, her tackle, furniture, and apparel.

Sum ordered to be paid leviable by distress on vessel.

16 Any police magistrate imposing any penalties under this Ordinance may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings. Application of penalties.

20* This Ordinance shall come into operation at such time as the Governor shall appoint by Proclamation† to be published in the *Government Gazette.*

SCHEDULE A.

Name of Vessel.	Name of Master	Tons per Register	Port or Place of Embarkation.	No.	Port or Place at which Passengers have contracted to be landed	Date of Departure.

19th January, 1886.

No. 4 of 1886.

An Ordinance to provide for Public and Bank Holidays.

WHEREAS it is expedient that certain days in the year should be declared public holidays and bank holidays, respectively: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble

1 This Ordinance may be cited as "The Holidays Ordinance, 1886," and it shall come into operation on the passing thereof. Short title. Commencement.

2 From and after the coming into operation of this Ordinance there shall be repealed— Repeal.

(1) Section 8 of Ordinance 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon;"

(2) So much of any other Ordinance as is inconsistent with this Ordinance.

* Sections 18 and 19 have been omitted as impliedly repealed by section 15 of No. 8 of 1891.

† Proclaimed the First day of November, 1886.

Interpretation clause.

3 For the purposes of this Ordinance, the "day next following a public holiday" shall mean the next following day not being itself a public holiday; and "the day next following a bank holiday" shall mean the next following day not being itself a public or a bank holiday.

Certain days to be public holidays.

4 The several days mentioned in schedule A hereto annexed (and which days are hereinafter referred to as public holidays) shall, in addition to Sundays, be *dies non*, and shall be kept (except as hereinafter provided) as holidays in this colony. If any of these holidays fall on a Sunday, the following Monday shall be a public holiday, unless otherwise ordered by the Governor, of which notice shall be given in the *Government Gazette*.

Regulations.

5 The Governor in Executive Council may, from time to time, make regulations excluding in whole, or in part, from the operation of this Ordinance, any public office or any department thereof, and thereupon all acts and things relating to such public office or department thereof may be done and performed on any public holiday, notwithstanding the provisions of this Ordinance.

Bank holidays.

Bills due on bank or public holidays to be payable on the following day.

6 After the coming into operation of this Ordinance, the several days in the schedule B hereto annexed (and which days are hereinafter referred to as bank holidays) shall be kept as close holidays in all banks in this colony, and all bills of exchange and promissory notes which are due and payable on any such bank or public holiday shall be payable, and in case of non-payment may be noted and protested, on the next following day; and any such noting or protest shall be as valid as if made on the day on which the bill or note was made due and payable.

Provisions as to notice of dishonour and presentation for honour.

7 When the day on which any notice of dishonour of an unpaid bill of exchange or promissory note should be given, or when the day on which a bill of exchange or promissory note should be presented or received for acceptance, or accepted or forwarded to any referee or referees, is a bank or public holiday, such notice of dishonour shall be given and such bill of exchange or promissory note shall be presented or forwarded on the day next following such bank or public holiday.

As to payments on bank or public holidays.

8 No person shall be compellable to make any payment or to do any act upon such bank or public holiday which he would not be compellable to do or make on Sunday; and the obligation to make such payment and do such act shall apply to the day following such bank or public holiday; and the making of such payment and doing such act on such following day shall be equivalent to payment of the money or performance of the act on the holiday.

Governor may appoint special days to be observed as bank

9 It shall be lawful for the Governor, by notification in the *Government Gazette*, at any time to appoint a special day to be observed as a public holiday or as a bank holiday, in addition to or in substitution for any of the days mentioned

in the schedules hereto annexed, and thereupon the provisions of this Ordinance shall be applicable to such day in the same manner as if the said day had been mentioned in the said schedules.

or public holidays.

SCHEDULE A.

Public Holidays.

New Year's Day and the following day.
Ash Wednesday.
Good Friday and the following day.
Easter Monday and Tuesday.
The Birthday of Her Majesty the Queen.
Ascension Day.
The Accession Day of Her Majesty the Queen.
The Prince of Wales' Birthday.
Christmas Eve, Christmas Day, and two subsequent days
Hindu New Year's Festival.
The first full moon of the Siphalese month Wesak.
The Mohammedan Hadji Festival.

SCHEDULE B.

Bank Holidays.

New Year's Day and the following day.
The Tamil Thai Pongal Day.
Good Friday and the following day.
Easter Monday and Tuesday.
The Birthday of Her Majesty the Queen.
Christmas Eve, Christmas Day, and two subsequent days.

2nd February, 1886.

No. 7 of 1886.

(*As amended by No. 7 of 1891.*)

An Ordinance relating to the Supply of Water to the Colombo Municipality.

Preamble.

WHEREAS it is expedient to regulate the supply of water to the Colombo Municipality by means of the Ceylon Government Waterworks, and to provide for the payment of the water so supplied: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title: to come into operation when notified by Proclamation.

1 This Ordinance may be cited as "The Colombo Waterworks Ordinance, 1886," and it shall come into operation at such time as the Governor shall appoint by Proclamation to be published in the *Government Gazette.*

Governor to appoint Waterworks Engineer and other officers.

Duties and powers of Waterworks Engineer may be performed and exercised by officers specially authorized by him.

2 The Governor shall appoint a fit and proper person, who shall be called the Waterworks Engineer, to execute the duties and exercise the powers hereinafter mentioned, and such inspectors, clerks, and other officers as may be necessary; and all duties and powers hereinafter required to be performed and exercised by the Waterworks Engineer shall and may be performed and exercised by any officer specially authorized thereto in writing by the Waterworks Engineer.

Government to lay down pipes and provide the works necessary for the supply of water for domestic purposes throughout the year in the public streets of the municipality.

3 The Ceylon Government shall provide a supply of drinking water within the municipality of Colombo, and shall for that purpose cause such pipes to be laid, and such tanks, reservoirs, or other works to be made, as are necessary for the supply of wholesome water in the public streets of the Colombo Municipality, and shall erect in such streets convenient standpipes, fountains, open reservoirs, or pumps for the gratuitous use of the inhabitants of the municipality for domestic purposes. It shall be the duty of the Government, as far as possible, to make adequate provision that such supply of water shall be continuous throughout the year, and that the water supplied may be at all times pure and fit for human consumption.

Government may allow service to, and shall lay service pipes to the boundary of, private premises at the expense of the owner or occupier.

All necessary private or internal fittings to be first completed to the satisfaction of

4 The Ceylon Government may, on application by the owner or occupier of any house, allow a private service of water to such house for domestic purposes, in such quantities and under such conditions as the Government deem reasonable. When a private service is allowed, the Government shall make the necessary connection between the street waterworks pipe and the boundary of the premises to be served, such boundary being conterminous with the limit of the public street in which the waterworks pipe is laid, but the cost of such connection and of all further piping and of all internal fittings requisite for such private service shall be borne by the owner or occupier.

Provided, however, that no connection shall be made with the street waterworks pipe until the estimated cost thereof shall have been deposited with the Waterworks Engineer, and until all the private piping and internal fittings requisite for the private service shall have previously been erected and completed to the satisfaction of the Waterworks Engineer.

the Waterworks Engineer.

5 The works, other than the connection between the street waterworks pipe and the boundary of the premises to be served, necessary for such private service, and all future repairs, extensions, and alterations of such works, shall in every case be in accordance with the regulations made in that behalf by the Governor in Executive Council, and shall be executed by the Waterworks Engineer, or by the owner or occupier applying for the private service under the orders and subject to the approval of the Waterworks Engineer. If the said works or the repairs, extensions, and alterations of the same shall be executed by the Waterworks Engineer, the expense thereof, when certified under the hand of the Waterworks Engineer, shall be defrayed by such owner or occupier, and the same may be recovered by the Municipal Council of Colombo as if it were a tax payable under "The Municipal Councils' Ordinance, 1865," and when recovered shall be accounted for as the Governor in Executive Council may direct.

Other works necessary to private service, and all repairs and alterations of such to be in accordance with regulations made by the Governor in Executive Council, and to be executed by or subject to the approval of the Waterworks Engineer.

Expense, when executed by Waterworks Engineer, to be borne by owner or occupier, and recoverable as a tax under the Municipal Councils' Ordinance.

6 All public tanks, reservoirs, cisterns, fountains, wells, aqueducts, conduits, tunnels, pipes, pumps, and other waterworks existing at the time of the coming into operation of this Ordinance, or afterwards made, laid, or erected, and whether made, laid, or erected at the cost of the Government or otherwise, and all bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto, and also any adjacent land (not being private property) appertaining to any such works, shall be vested in the Ceylon Government.

All public waterworks already existing or hereafter to be made, and all bridges, buildings, &c., and adjacent land (not private property) appertaining thereto, to be vested in Government.

7 The Ceylon Government shall cause all existing public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, fountains, and other works used for the supply of water to be maintained and supplied with water; and the Governor, in Executive Council, may close any such works, and substitute other such works, and may cause them to be maintained and supplied with water.

Government to cause such works to be maintained and supplied, and may substitute others.

8 The Ceylon Government may from time to time construct filtering tanks, aqueducts, or other works for bringing wholesome water into the municipality of Colombo, and may provide new tanks, reservoirs, cisterns, wells, fountains, standpipes, and other such works for the use of the inhabitants.

Government may from time to time provide filtering and other works, and provide new tanks, &c.

9 The Ceylon Government in laying down any pipes for the water supply of the municipality may, if they consider it necessary, carry such pipes through, across, or under any street or any place laid out or intended for a street, or under any building, or through any cellar or vault, or into, through, or under any enclosed or other land whatsoever.

Power to break up streets, &c., and enter private land.

Reasonable notice to be given and compensation paid to the owner of private property.

Settlement of disputes as to compensation.

The Government shall, in every case in which they deal with private property under this section, give reasonable notice of their intention so to do to the owner of such property, and shall on completion of the work pay to him reasonable compensation for so dealing with the property. If dispute arises as to the amount or apportionment of such compensation, such amount and apportionment shall be summarily ascertained and determined by the Commissioner of the Court of Requests of Colombo, whose decision shall be subject to an appeal to the Supreme Court.

Construction, maintenance. repairs, &c., of works to be provided for by annuities to be paid by the municipal council.

10 To enable the Ceylon Government to provide for the cost of the construction, maintenance, repairs, extension, improvement, and other incidental expenses of the waterworks, together with interest and sinking fund in respect of the loans heretofore contracted under Ordinances No. 7 of 1879 and No. 4 of 1885 for the construction and completion of the said works, the Municipal Council of Colombo shall pay to the Government an annuity of one hundred and ten thousand rupees for each of the years 1887 and 1888, and also a proportion of the like annuity for the year 1886, calculated for the period of actual supply of water to the said municipality from the said waterworks during the last-mentioned year. And from and after the expiration of the year 1888 the said municipal council shall pay to the Government an annuity of one hundred and thirty thousand rupees for a period not exceeding thirty-five years.

Annuities payable from municipal fund, and chargeable to rates, taxes, rents, income, and property of municipality.

11 Every such annuity or proportion thereof as aforesaid shall be payable from the municipal fund, and shall be chargeable to the rates and taxes, rents, and all other the income and property of the said municipality, anything in the Ordinance No. 17 of 1865 to the contrary notwithstanding; and the same shall be paid in such instalments and at such times as the Governor in Executive Council shall direct.

Municipal council to levy a separate water-rate, or one consolidated rate for water, police, and lighting.

Maximum.

Mode of levy.

12 To enable the municipal council to provide for the payment of such annuities or proportion thereof as aforesaid from the municipal fund, it shall be lawful for the said council to levy a water-rate, either separately or together with the police and lighting rates as one consolidated rate, on the annual value of all houses, buildings, lands, and tenements, other than the property of the Crown, within the limits of the said municipality, anything in the Ordinance No. 17 of 1865 or the Ordinance No. 12 of 1878 to the contrary notwithstanding. Such water-rate or consolidated rate shall be determined from time to time by the Governor in Executive Council, but such consolidated rate shall not exceed a maximum of eleven per cent. on such annual value as aforesaid; and the provisions of any existing or future Ordinance or Ordinances, or of any by-laws lawfully enacted by the Municipal Council of Colombo thereunder, relating to the assessment, recovery of, and exemptions from the police rate within the limits of the said municipality, shall apply to the assessment, recovery of, and exemptions from the said water-rate or consolidated rate.

13 The Governor in Executive Council may, if he thinks fit, from time to time, by notification in the *Government Gazette*, exempt any division or part of a division of the municipality, or any house, land, or tenement in which the general facilities afforded by the water supply are not fully available, from the payment of the water-rate or of such proportion of the consolidated rate as may be assessed in respect of such water supply, and may also from time to time remove such exemption.

Governor may exempt division, house, or land from charge for water.

14 Every person paying such water or consolidated rate shall be entitled to have, free of further charge in respect thereof, a supply of water from the public standpipes for the domestic use of himself and his household.

Persons paying rate entitled to free use of water from public standpipes for domestic purposes

15 A supply of water for domestic purposes shall not include a supply of water for horses or cattle, or for washing vehicles, where such horses, cattle, or vehicles are kept for sale or hire, or a supply for any trade, manufacture, or business, or for fountains or swimming baths, or for any ornamental or mechanical purpose, or for purposes of irrigation.

"Domestic purposes"—what not included in.

16 Independently of the water or consolidated rate leviable under section 12, and the expenses payable under section 5, the Waterworks Engineer, on behalf of the Ceylon Government, may agree with any person to supply water for other than domestic purposes, in such manner, on such terms, and subject to such conditions and regulations, as may from time to time be determined and made by the Governor in Executive Council.

Water may be supplied for other than domestic purposes, subject to conditions made by the Governor in Executive Council. [§ 2, 7 of 1891]

17 All sums due on account of any water supplied under the last preceding section shall, when certified by the Waterworks Engineer, be recovered by the Municipal Council of Colombo as if the same were a tax under "The Municipal Councils' Ordinance, 1865," and shall be accounted for as the Governor in Executive Council may direct.

Sums due on account of water so supplied, how recovered and accounted for. [See § 3, 7 of 1891]

18 No meter, whether supplied by or the property of the Ceylon Government or the consumer, shall be altered or repaired except under the direction or with the consent of the Waterworks Engineer, and the Government shall be entitled to rent out and to keep all meters in repair at the cost of the consumer at such rate of remuneration as may be agreed on between the Government and the consumer.

No meter to be altered except with consent of Waterworks Engineer

Government may rent out and keep in repair meters at cost of consumer and at an agreed rate

19 The Ceylon Government shall not be liable under any agreement for the supply of water, or otherwise, to any penalty or damages for not supplying such water, if the want of such supply arises from unusual drought or other unavoidable cause or accident.

Government not liable for breach of agreement to supply caused by unavoidable circumstances.

20 The Waterworks Engineer or any person authorized in that behalf by him may, at any time between eight of the clock in the morning and five of the clock in the evening, by giving one hour's notice to the occupier of any building or premises supplied with water under section 4 or section 16, enter such building or premises in order to examine the condition of the pipe, works, and fittings, and to ascertain if there be any waste or misuse of such water. If the Waterworks

Waterworks Engineer may on notice enter and examine premises supplied by private service pipe and ascertain condition, &c.

If refused admission unreasonably, may cut off supply.

Engineer or such other person at any such time is without reasonable cause refused admittance into such building or premises for the purpose aforesaid, or is prevented without reasonable cause from making such examination, or, if necessary, preventing waste of water pending repair, the Waterworks Engineer may stop the supply of water to such building or premises.

Penalty for suffering pipes, &c, to be out of repair.

21 If any person supplied with water from the waterworks wilfully or negligently causes or suffers any pipe, valve, cock, cistern, soil-pan, water-closet, or other apparatus or receptacle to be out of repair, or to be so used or contrived that the water supplied to him from the waterworks is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air or other noisome or impure matter into any pipe belonging to or connected with the pipes of the waterworks, he shall be guilty of an offence, and be liable for every such offence to a fine not exceeding one hundred rupees.

Waterworks Engineer may repair and recover expenses.

22 The Waterworks Engineer may repair any such pipe, valve, cock, cistern, soil-pan, water-closet, or other apparatus or receptacle, so as to prevent any such waste of water, and the expense of such repair, when certified under his hand, shall be defrayed by the person so allowing the same to be out of repair, and the same may be recovered by the municipal council as if it were a tax payable under "The Municipal Councils' Ordinance, 1865," and when recovered shall be accounted for as the Governor in Executive Council may direct.

Penalty for misuse of water supplied.

23 Every person who—

(*a*) Not having a supply of water from the waterworks for other than domestic purposes, uses for other than domestic purposes any water supplied to him from the waterworks; or

(*b*) Having from the waterworks a supply of water for any other than domestic purposes, uses, for any purposes other than those for which he is entitled to use the same, any water supplied to him from the waterworks;

shall be guilty of an offence, and shall be punished with a fine not exceeding twenty rupees, without prejudice to the right of the Government to recover from him the value of the water misused.

Penalty on owner or occupier of supplied premises affixing apparatus to pipes, &c., without consent of engineer.

24 It shall not be lawful for the owner or occupier of any premises supplied with water from the waterworks, or any consumer of the water of the waterworks, or any other person, to affix or cause or permit to be affixed any pipe or apparatus to a pipe belonging to the waterworks, or to a communication or service pipe used by such owner, occupier, consumer, or other person, or to make any alteration in such communication or service pipe, without the consent in every such case of the Waterworks Engineer; and if any person acts in any respect in contravention of the provisions

of this section, he shall, for every such offence, be liable to a fine not exceeding fifty rupees, without prejudice to the right of the Ceylon Government to recover damages from him in respect of any injury done to the waterworks property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed.

Penalty for supplying water to, or permitting it to be taken from supplied premises by, any other person.

25 Every owner or occupier of any premises supplied with water under this Ordinance, who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such premises, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water from the waterworks, and the pipes supplying him be without his default out of repair, shall be guilty of an offence, and liable to a fine not exceeding fifty rupees.

Penalty on person not supplied from waterworks taking water.

26 Every person who, not being supplied with water from the waterworks, wrongfully takes or uses any water from any reservoir, water-course, conduit, or pipe belonging to the waterworks, or from any pipe leading to or from any such reservoir, water-course, conduit, or pipe, or from any cistern or other like place containing water belonging to or supplied from the waterworks, or for the use of any consumer of the water of the waterworks, other than such as may have been provided for the gratuitous use of the public, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees.

Penalty for destroying or injuring works, &c., and wasting water.

27 Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the waterworks, or shall flush or draw off the water from the reservoirs or other works belonging to the waterworks, or shall do any other wilful act whereby such water shall be wasted, shall be guilty of an offence punishable with a fine not exceeding one hundred rupees.

Water may be cut off for contravention of provisions of Ordinance and regulations.

28 If any person supplied with water from the waterworks does or causes or permits to be done anything in contravention of any of the provisions of this Ordinance, or of the regulations made hereunder, or wrongfully fails to do anything which under any of those provisions ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water belonging to the waterworks, the Waterworks Engineer may (without prejudice to any remedy against such person in respect thereof) cut off any of the pipes by or through which water is supplied to such person or for his use, and may cease to supply him with water so long as the cause of injury remains, or is not remedied.

And Waterworks Engineer may on notice enter and cut off pipes, &c.

29 In all cases in which the Waterworks Engineer is by this Ordinance authorized to cut off or stop the supply of water to any building or premises, and in all cases in which any building or premises supplied with water by the Ceylon Government shall have become unoccupied, the Waterworks Engineer, his agents, and workmen, after giving six hours' notice to the owner or occupier, may enter such building or

premises between the hours of eight of the clock in the morning and five of the clock in the evening, and cut off any pipes by which the water of the Government shall be conveyed to such premises, and may remove any pipe, meter, fittings, and apparatus, the property of the Government.

Penalty for causing water to be fouled, &c.

30 Every person who shall commit any of the offences next hereinafter enumerated shall for every such offence be punished with a fine not exceeding fifty rupees; that is to say—

(*a*) Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the Government, or wash, throw, or cause to enter therein any dog or other animal;

(*b*) Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes, or other thing;

(*c*) Every person who shall cause the water of any sink, sewer, or drain, steam-engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the Government, or shall do any other act whereby the water belonging to the waterworks shall be fouled;

and every such person shall be liable to a further fine of ten rupees for each day (if more than one) that such last-mentioned offence shall be continued.

Penalty on owners, &c., of gasworks, &c., for fouling water of the waterworks in the course of their business.

Daily penalty during the continuance of the offence.

Power to examine gas pipes, &c., to ascertain cause of fouling.

31 Whoever, being the owner, superintendent, agent, manager, or occupier of any gasworks, or being engaged in the manufacture or supply of gas, or being the owner or occupier of any place where such manufacture or any offensive trade or manufacture is carried on, does any act connected with the said business whereby the water in any stream, reservoir, cistern, aqueduct, or other work belonging to the waterworks is fouled, shall be guilty of an offence and liable to a fine not exceeding one thousand rupees, and to a further fine not exceeding five hundred rupees for every day on which the offence is continued after twenty-four hours' notice from the Waterworks Engineer. The Waterworks Engineer or any person duly authorized by him in that behalf may, after twenty-four hours' notice, in writing, lay open and examine any pipe or work belonging to any such person or under his management or control.

The expenses to abide the result of the examination.

32 If upon such examination it appears that any such water has been fouled by anything proceeding from or contained in the pipes or works examined, the expenses of such examination shall be paid by the person to whom such pipes or works belong, or under whose management or control they are. If upon such examination it appears that such water has not been so fouled, then such expenses shall be borne by the Ceylon Government.

33 The Waterworks Engineer shall, at the request and expense of the owner or occupier of any work or manufactory situated in any street in which there shall be a pipe of the waterworks, place and maintain in effective order a fire-plug (to be used only for extinguishing fires) as near as conveniently may be to such work or manufactory.

Waterworks Engineer to place and maintain fire-plugs.

34 The regulations in the schedule hereto annexed shall be observed by all consumers of water within the municipality; and it shall be lawful for the Governor in Executive Council to make, from time to time, such further regulations as may appear expedient for any of the following purposes:

Regulations for all purposes relating to supply and control of water, how to be made.

(*a*) For preventing waste, misuse, undue consumption, or contamination of the water supplied by the Government for public or private use;

(*b*) For directing the use and prescribing the size, nature, strength, and materials, and the mode of arrangement, position, alteration, and repair of the pipes, valves, cocks, cisterns, soil-pans, water-closets, and other apparatus and receptacles, or any of them, to be used respectively for carrying, delivering, rendering, and restoring water;

(*c*) For establishing, maintaining, and regulating public bathing-places and places for washing animals or clothes;

(*d*) For regulating the public supply of water by stand-pipes, and the use of the same;

(*e*) For regulating the supply of water by private services, and the materials and fittings to be used therefor;

(*f*) For regulating the supply of water under section 16, and the materials and fittings to be used therefor, and the use of water meters when required; [§ 4, 7 *of 1891*]

(*g*) And for every other purpose relating to the supply or control of water supplied from the waterworks as to the Governor in Executive Council shall appear necessary.

Such further regulations shall be published by Proclamation in the *Government Gazette*, and it shall be lawful for the Governor in Executive Council, by like Proclamation, to alter, vary, amend, or repeal any regulation so proclaimed or any of the regulations in schedule B, and, if necessary, to substitute other regulations in place thereof.

35 Every person committing a breach of any of the regulations made under the last preceding section, or contained in schedule B, shall be guilty of an offence, and shall be liable to a penalty not exceeding fifty rupees.

Penalty for breach of.

36 When any notice is required by this Ordinance to be given to the owner or to the occupier of any house, building, or land, such notice addressed to the owner or occupier may be served on the occupier of such house, building, or land,

Service of notices.

or left with some adult member or servant of his family, or if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such house, building, or land; and it shall not be necessary in any such notice to name the occupier or the owner. Any person receiving the rent of any house, building, or land, either on his own account or as agent for another, shall, for the purposes of this Ordinance, be deemed the owner of such house, building, or land.

Prosecutions under the Ordinance where to be instituted and fines how recovered. Jurisdiction of magistrate to impose fines.

37 Every prosecution under this Ordinance may be instituted before the Police Magistrate of Colombo; and every fine imposed under this Ordinance, or any regulation made in pursuance thereof, may be recovered by a summary proceeding before such magistrate; and it shall be lawful to such magistrate to impose the full fine or penalty herein or in any regulation provided, notwithstanding the aggregate amount of such fines or penalties may exceed the sum which it is competent for him in the exercise of his summary jurisdiction to award.

SCHEDULE.

1. Every person using the standpipes must shut or turn down the tap after drawing water, so as to stop all flow of the water.

2. Persons requiring a supply of water by private service pipes must, in the first instance, obtain from the Waterworks Engineer or other authorized officer of the waterworks instructions as to the proper point for the introduction of the water on the consumer's premises. Such persons must, at their own cost, provide, lay down, and maintain all service pipes and fittings which may be required within their premises. The Government will drill their own waterpipe, fix the ferrule and stop-tap, and lay down the service pipe to the boundary of the consumer's premises.

3. A stop-tap will be fixed by the Government on the service pipe, either outside or inside the premises as may be convenient, and as near to the entrance as possible; and in all places where the stop-tap is fixed in the ground, a small cast iron guard box to indicate the situation of such stop-tap will also be fixed. The position of stop-tap and surface box will be arranged by the Government and open to their inspection and control at all times.

4. In case the service pipes are of lead, they are required to be of the following strength, viz.:

3/8 inch diameter, 3 1/2 lb. per lineal yard.
1/2 inch diameter, 4 1/2 lb. per lineal yard.
3/4 inch diameter, 7 lb. per lineal yard.
1 inch diameter, 10 lb. per lineal yard.
1 1/4 inch diameter, 14 lb. per lineal yard.

5. Private service pipes are required to be laid 2 feet 6 inches to 2 feet. as may be directed by the Waterworks Engineer, below the surface of the ground, and also to be brought out through the boundary of the private premises at the same level below the street or roadway, and in default of this regulation being complied with, the pipes will not be connected by the Government.

6. No pipe must be laid through or in any sewer, drain, manure hole, ash-pit, or other place from which, in the event of decay or injury to such pipe, the water of the Government may be liable to become foul or to escape without observation.

7. Before the connection for the supply of water can be made, or before any additional fittings can be connected to an existing service pipe, the work must be inspected and approved by the Waterworks Engineer or other authorized officer of the waterworks.

8. None but proper valve-taps are to be fixed, and of such a description as the Waterworks Engineer may approve of.

9. The taps must be on the screw-down principle, with loose valves and stuffing boxes; the diameter of all orifices in the seat on which the valves work in the stop-taps to be the same size as the taps themselves, and all taps must be capable of resisting a pressure of 200 lb. to the square inch, to which they may be subjected in testing.

10. Copper bit joints will not be allowed, but in all cases a proper wiped joint must be made, or such other joint as may be approved by the Waterworks Engineer.

11. No house or other premises will be allowed to have more than one supply pipe either from the main or from any adjoining premises.

12. No steam engine, boiler, or any description of closed boiler will be allowed to be supplied direct from the service pipe, but a cistern must be provided in every case, and the supply taken therefrom.

13. No water-closet or urinal will be allowed to be supplied direct from the service pipe, but must be supplied from a cistern; and no water-closet can be supplied by stop-tap or bib-tap, but must be provided with a proper valve apparatus to be approved by the Waterworks Engineer.

14. No tap for domestic purposes in dwelling houses, or for drinking purposes in warehouses, will be allowed to be supplied from a cistern, but in all such cases drawing-off taps must be fixed on the service pipe before it enters the cistern. Baths, water-closets, urinals, and wash basins only shall be allowed to be supplied from a cistern.

15. Cisterns must in every case be supplied by means of ball-taps.

16. Cisterns for water-closets must be approved by the Waterworks Engineer, and constructed so as not to deliver more than two gallons of water at a flush. The pulls of the cisterns must be so constructed as to prevent their being fixed in any position which will allow the water to be left running to waste.

17. The overflow pipes of all cisterns must act as warning pipes, and must be brought through the external wall of the premises supplied with water at such a conspicuous point below the level of the bottom of the cistern as may be directed, and there properly maintained, which pipe must be of sufficient diameter to deliver any water wasting from the different ball-taps when out of order.

18. Every cistern which shall be used for the storage or reception of water supplied by the Government shall be made, and at all times maintained, absolutely water-tight, and shall be provided with a ball-tap, which tap shall have at the end a screw connection with lock, nut, and union, and the cistern shall be drilled for reception of the same. The ball-tap shall be so fixed as not to become submerged when the cistern is full. The level of the water in the cistern shall always be maintained at two inches below the overflow or warning pipe, and every cistern shall be capable of inspection.

19. The bib-taps and stop-taps must be of the following average weights, viz. :

1 inch	...		32 1/4 ounces.
3/4 inch	...	...	21 ounces.
1/2 inch	...	...	11 1/2 ounces.
3/8 inch	...	...	8 1/2 ounces.

Double valve bib-taps :

3/4 inch	...	...	22 3/4 ounces.
1/2 inch	...	...	13 1/4 ounces.
3/8 inch	...	...	10 1/4 ounces.

20. Ball-taps must be of the best quality, and the diameter of the tap and ball as under :

1 inch diameter of tap not less than 6 inches diameter of ball.
3/4 inch diameter of tap not less than 5 1/2 inches diameter of ball.
1/2 inch diameter of tap not less than 4 1/2 inches diameter of ball.
3/8 inch diameter of tap not less than 4 1/2 inches diameter of ball.

21. The rods or spindles from the balls to the taps must not be less than the following lengths :

1 inch diameter of tap	...	13 inches long.
3/4 inch diameter of tap	...	13 inches long.
1/2 inch diameter of tap	...	11 inches long.
3/8 inch diameter of tap	...	11 inches long.

22. The strength of such rods or spindles must not be less than as follows :

		End next the Tap.		End next the Ball.
1 inch	...	14/32 by 8/32 inch	...	10/32 by 7/32 inch.
3/4 inch	...	13/32 by 7/32 inch	...	10/32 by 7/32 inch.
1/2 inch	...	12/32 by 6/32 inch	...	10/32 by 4/32 inch.
3/8 inch	...	11/32 by 5/32 inch	...	10/32 by 4/32 inch.

The rods or spindles referred to above may be of the following strength in lieu of those stated, viz., 4/10 by 2/10 inch.

23. Such taps without balls or spindles must not be less than the following weights :

1 inch	...	...	22 1/2 ounces.
3/4 inch	...	...	10 3/4 ounces.
1/2 inch	...	...	7 3/4 ounces.

24. The Government shall provide and fix all water meters, and shall also lay the service pipes through the boundary of the premises to the inlet of the meters, and fix the stop-cocks authorized at the expense of the occupier of the premises.

25. The Government may from time to time remove any meter for the purpose of testing the accuracy thereof, or for examination or repair, or for the purpose of substituting another meter, and in case of the discontinuance of the supply.

26. Water supplied by the Government otherwise than by measure or meter shall not be drawn or used through any hose or movable pipe except by previous agreement with the Government as to the use of hose or pipe, and as to the sum to be paid to the Government for the water to be conveyed through the same.

27. Samples of the quality of the materials to be used will be kept for inspection by the Government. All materials, valves, taps, piping, cisterns, ball-taps, &c., shall be of the very best quality, and approved by the Waterworks Engineer, and tested, if so required, by him and stamped. The cost of such testing and stamping shall be borne by the person supplying the materials.

18th February, 1886.

No. 8 of 1886.

(*As amended by No. 2 of 1888.*)

An Ordinance to provide for the Registration of Mohammedan Marriages contracted in this Colony.

WHEREAS it is expedient to provide for the registration of the marriages of persons professing the Mohammedan faith in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: — Preamble.

1 This Ordinance may be cited as "The Mohammedan Marriage Registration Ordinance, 1886." — Short title.

It extends to the whole of this island, and so far only as regards subjects of Her Majesty professing the Mohammedan faith; — Extent.

And it shall come into operation in such district or respective districts as shall be defined, and at such time or respective times as shall be appointed, by the Governor in Executive Council, by Proclamation to be published in the *Government Gazette.* — Commencement

2 In this Ordinance, unless the context otherwise requires— — Interpretation clause:

"Officiating levvai" shall mean any Mohammedan levvai who shall be licensed by the provincial registrar to register marriages under this Ordinance. — "Officiating levvai."

"Provincial registrar" shall mean the provincial registrar of marriages appointed under the provisions of Ordinance No. 15 of 1877, or of any future Ordinance providing for such appointment. — "Provincial registrar."

"Registrar" shall mean the registrar appointed by the Governor under section 8 or section 14 of this Ordinance. — "Registrar."

3 So much of the Code of Mohammedan Laws of 1806 as is inconsistent with this Ordinance is hereby repealed. — Repeal.

4 The provincial registrar may at his discretion issue a license, in the form contained in schedule A, to any Mohammedan levvai applying for the same, who, in his opinion, shall be a fit and proper person to be licensed to register marriages under this Ordinance, and any such — Provincial registrar to license officiating levvai.

License to be stamped.

Licensee to act only within the province.

license at his discretion revoke and recall. Every license shall bear a stamp of one rupee, which shall be supplied by the applicant, and shall be duly cancelled by the provincial registrar; and a list of such licenses shall be made and preserved in the office of the provincial registrar, and shall from time to time be published in the *Government Gazette*. And no officiating levvai shall register any marriage contracted under this Ordinance outside the limits of the province named in his license.

Marriages to be registered in duplicate.

5 It shall be the duty of the officiating levvai who attends the marriage ceremonies at the request of the contracting parties for the purpose of registering the marriage, immediately upon the performance of such ceremonies to register the marriage at the wedding meeting held according to custom, and such registration shall be in duplicate, that is to say, in a marriage register book, which he is hereby required to keep for that purpose, and which shall be furnished to him by the provincial registrar, according to the form contained in the schedule B hereto annexed, and also in a certificate attached to the marriage register book as a counterfoil; and the entries in the register book and in the certificate shall be in the Tamil language.

Entries of such marriages to be signed and attested.

6 The entry of such marriage in both the certificate and marriage register book shall be signed by the officiating levvai, and also by the bridegroom and by the lawful wali of the bride, and shall be attested by two witnesses present at the marriage; and where the party required to sign is not able to write, he shall affix his mark.

Number of certificate to correspond with that of register book.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage register book.

Certificate to be forwarded to provincial registrar.

7 The officiating levvai registering the marriage shall forthwith separate the certificate from the marriage register book and send it, within seven days from the time of the registration, to the provincial registrar of his province to be filed of record in his office; and every such certificate shall bear a stamp of twenty-five cents, which shall be supplied to the officiating levvai by the persons contracting the marriage, and which shall be duly cancelled by him as required by law.

Governor to appoint Mohammedan registrar.

Registrar may register marriages.

8 It shall be lawful for the Governor, by notification in the *Gazette*, to appoint any Mohammedan other than an officiating levvai to be a marriage registrar in respect of any district or place where there is no resident officiating levvai, for the purpose of registering marriages under this Ordinance; and a legal marriage may be contracted under this Ordinance before such registrar, who shall, upon the performance of the usual marriage ceremonies, register such marriage.

Provisions applicable to marriages so registered.

9 The provisions of sections 5, 6, and 7 of this Ordinance, as to the form of the register book, the mode of registration, the transmitting of the stamped certificate to the provincial

registrar, and the due cancelling of the stamp thereon, shall, *mutatis mutandis*, apply to the marriages contracted before the registrar in manner provided in the last preceding section.

Penalties.

10 Every officiating levvai or registrar who shall wilfully register any marriage contracted outside the limits of the province, district, or place to which he shall have been licensed or appointed, or who shall register any marriage at which he shall not have been present, or who shall wilfully neglect to keep a marriage register book as required by section 5, or to register in the said marriage book in the manner provided in section 6 any marriage which by this Ordinance he shall be bound to register, or who shall fail without lawful excuse to send the counterfoil certificates duly stamped to the provincial registrar as required by section 7, or who shall wilfully disregard the regulations made as provided in section 14, shall be guilty of an offence, and shall be liable to a fine not exceeding one hundred rupees.

Penalty for refusing to sign register, or not providing the necessary stamp.

11 Every person required thereto by section 6 who refuses to sign the register book, and every person liable thereto under section 7 who refuses or neglects to provide the necessary stamp for the counterfoil certificate, shall be guilty of an offence, and shall be liable to a fine not exceeding twenty rupees.

Power to supply omissions or correct errors in registration.

12 Where a marriage has been contracted under the provisions of this Ordinance, which, without the fault of the parties thereto, may have been omitted to be registered, or may have been erroneously registered, it shall be lawful to either of the said parties, or in case of his or her death, to the issue or other lawful representative of such party, to apply to the government agent of the province or the assistant government agent of the district within which the marriage took place, to have such marriage correctly registered ; and such government agent or assistant government agent shall cause the officiating levvai or registrar before whom the marriage was contracted, and such other parties as to him shall appear expedient, to be noticed to show cause why such application shall not be granted. If no sufficient cause be shown to the contrary, and the government agent or assistant government agent shall be satisfied, after hearing such evidence as the parties may adduce, that such marriage has been proved, he shall certify the same to the provincial registrar, who shall thereupon cause such marriage to be registered.

Clandestine marriages void. Registration by persons other than levvai or registrar made penal.

13 If both the parties to a marriage shall knowingly and wilfully intermarry under the provisions of this Ordinance under false names, such marriage shall be null and void ; and if either of the parties to a marriage shall knowingly and wilfully consent to, or acquiesce in, the registration of a marriage by a person not being an officiating levvai or registrar, such party shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees.

[§ 2, 2 of 1888]

Governor in Executive Council may make regulations, and may dismiss registrar.

14 It shall be lawful for the Governor from time to time, with the advice of the Executive Council, to make, and when made, to revoke, add to, and alter regulations for the guidance of the officiating levvais and registrars in the discharge of their duties, and to dismiss any registrar from his office and appoint another in his stead, and from time to time to amend the form given in schedule B.

Fee payable to officiating levvai or registrar.

15 Every officiating levvai or registrar who shall register a marriage under this Ordinance, shall be entitled to the payment of a fee of one rupee and fifty cents.

Inspection of register books and certificates, and obtaining copies thereof.

16 Every person claiming interest in any marriage shall be entitled at all reasonable hours to inspect the register books or counterfoil certificates on payment of a fee of ten cents, and to obtain a certified copy of any entry therein on payment of a fee of twenty-five cents.

Registration not to be sole proof of marriage.

[§ 3, 2 *of 1888*]

17 Proof of the registration of any marriage contracted by persons professing the Mohammedan faith, after this Ordinance shall have come into operation, shall be received in all courts in this colony as the best evidence of such marriage; but nothing herein contained shall be construed to render valid or invalid, merely by reason of its having been registered or not having been registered, any Mohammedan marriage which would otherwise be invalid or valid, or to preclude any legal evidence other than that of registration from being adduced in proof of such marriage.

Destroying or falsifying register book or counterfoil certificate.

Unauthorized registration.

18 Whoever by himself or another wilfully destroys or injures any register book or counterfoil certificate, or any part thereof, or any authenticated extract therefrom, or falsely makes or counterfeits any part of such register book or counterfoil certificate; or wilfully inserts any false entry in any such register book or counterfoil certificate, or authenticated extract therefrom; and whoever, not being an officiating levvai or registrar, registers or professes to register any marriage under this Ordinance, shall be punished with rigorous imprisonment for a term which may extend to seven years.

Prescription of action for dower.

19 The time for the prescription or limitation of a suit or action for the whole or part of a woman's dower shall not begin to run until after the dissolution of the marriage by death or divorce, and such suit or action shall be maintainable if commenced within such time as any action shall be maintainable by the Ordinance No. 22 of 1871, or by any future Ordinance regulating the prescription of actions, for the recovery of money paid or expended by a plaintiff on account of a defendant, or for money received by a defendant for the use of a plaintiff.

Register books to be furnished free of charge.

20 The marriage register books, with the counterfoil certificates attached thereto, shall be furnished by the provincial registrar on the application of the officiating levvai or registrar free of charge.

21 Every officiating levvai, when his license is resigned by him or is revoked by the provincial registrar, and every registrar when he resigns his office, or is dismissed by the Governor in manner provided in section 14, shall forthwith return to the provincial registrar all such marriage register books, with the counterfoil certificates thereof, as shall be in his possession at the date of such resignation, revocation, or dismissal; and if any officiating levvai or registrar shall fail or neglect so to do, he shall be guilty of an offence, and be liable to a fine not exceeding one hundred rupees.

Register books to be returned by levvai or registrar who resigns, or is dismissed.

22 In the case of the death of any officiating levvai or registrar, if any of his heirs, executors, administrators, or successors in office, or any other persons into whose possession any register book or counterfoil certificate belonging to such officiating levvai or registrar shall have come, shall fail or neglect to deliver over the same on demand to the provincial registrar, he shall be guilty of an offence and be liable to a fine not exceeding one hundred rupees.

When levvai or registrar dies, books and certificates to be given up on demand to provincial registrar.

23 Every order made by the provincial registrar refusing or revoking a license under section 4, and every order made by the government agent or assistant government agent certifying the proof of a marriage under section 12, shall be subject to an appeal to the Governor in Executive Council, and every such appeal shall be preferred within seven days after the order appealed from shall have been notified to the party or parties concerned.

Appeal.

SCHEDULE A.

I, ———, Provincial Registrar of Marriages for the ——— Province, do hereby license ———, of ———, to register marriages under "The Mohammedan Marriage Registration Ordinance, 1886," within the ——— Province.

———

Provincial Registrar.

SCHEDULE B.

Marriage Register Book.

No.—— Marriages registered by ———,
Officiating Levvai (*or* Registrar).

Date of Marriage.	Name and Residence of the Bridegroom.	Names and Residence of Bridegroom's Parents.	Name and Residence of the Bride.	Names and Residence of Bride's Parents.	Name in full of Officiating Levvai or Registrar.	Amount of Mahr and Stridanum.	Mahr and Stridanum, whether prepaid or not.

Signatures of Parties:
Bridegroom: ———
Bride's Wali: ———

Signatures of Witnesses:
(1) ———
(2) ———

———
Officiating Levvai (*or* Registrar).

18th February, 1886.

Certificate of Marriage.

No.—— Marriages registered by ———,
Officiating Levvai (*or* Registrar).

Date of Marriage.	Name and Residence of the Bridegroom.	Names and Residence of Bridegroom's Parents.	Name and Residence of the Bride.	Names and Residence of Bride's Parents.	Name in full of Officiating Levvai or Registrar.	Amount of Mahr and Stridanum.	Mahr and Stridanum, whether prepaid or not.

Signatures of Parties:
Bridegroom: ———
Bride's Wali: ———

Signatures of Witnesses:
(1) ———
(2) ———

———
Officiating Levvai (*or* Registrar).

No. 11 of 1886.

An Ordinance to remove doubts as to the Jurisdiction of the Police within the Ports of this Island.

(See No. 16 of 1865.)

Preamble.

WHEREAS doubts have arisen as to whether the police may lawfully have and exercise their powers within the ports of this island: And whereas it is expedient to remove such doubts: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Interpretation clause.

1 In this Ordinance, unless the context otherwise requires, "port" shall include all harbours, roadsteads, and places of anchorage in the island; and where the limits of any port have been or may hereafter be defined by the Governor, with the advice of the Executive Council, under section 5 of "The Masters Attendant's Ordinance, 1865," those limits shall be taken to apply to such port for the purposes of this Ordinance.

Police officers to act in the ports of this island.

2 Every police officer empowered to act as such within any town or place adjacent to any port, shall within such port have all such powers, protections, and privileges, and be liable to all such duties and responsibilities as by law he has and is liable to within such town or place.

Governor may make rules.

3 It shall be lawful for the Governor in Executive Council from time to time to make, and when made to revoke, alter, or amend rules—

(*a*) For regulating the number, distribution, and particular service of the several officers who shall be on duty in any port, and the number and description of boats to be provided for their service;

(*b*) For determining at what times and in what rotation the police boats shall be employed in rowing guard in the said port;

(*c*) For promoting the general efficiency of the police within the said port, and for preventing neglect or abuse in the discharge of their duties.

Police officers to obey lawful orders of master attendant and customs officers.

4 Every police officer, when acting as such within any port, shall obey and execute any lawful order which may be issued to him by the master attendant or the principal officer of customs of such port in all matters relating thereto, and to offences and offenders therein.

Penalties.

5 Any police officer committing a breach of any rule made under section 3, or refusing to obey or execute any lawful order issued to him under section 4, shall be guilty of an offence, and shall be liable to a fine not exceeding fifty rupees, or to simple imprisonment for a term not exceeding three months.

1st November, 1886.

No. 12 of 1886.

An Ordinance relating to the Board of Commissioners of Currency for Ceylon.

(*See No. 32 of 1884.*)

Preamble.

WHEREAS it is expedient that the Board of Commissioners of Currency established under "The Ceylon Paper Currency Ordinance, 1884," should be created a body corporate for the purposes of the said Ordinance: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

To be read as one with Ordinance No. 32 of 1884.

1 This Ordinance, so far as is consistent with the tenor thereof, shall be read and construed as one with "The Ceylon Paper Currency Ordinance, 1884," hereinafter called "the principal Ordinance."

Section 3 of Ordinance No. 32 of 1884 amended.

2 From and after the passing of this Ordinance, section 3 of the principal Ordinance shall be read and construed as though the concluding words "or persons to be nominated by the Governor temporarily instead of any of them" were omitted therefrom.

Board of Commissioners created a corporation, under the style of "The Ceylon Currency Commissioners."

3 The Board of Commissioners of Currency established under section 3 of the principal Ordinance shall, from and after the passing of this Ordinance, be and become a corporation with continuance for ever, under the name and style of "The Ceylon Currency Commissioners," with full power and authority to have and to use a common seal, and change and alter the same at their will and pleasure, and shall and may perform each and every of the duties and exercise each and every of the powers imposed on and vested in them by the principal Ordinance; and all acts, matters, or things which are authorized by the said Ordinance to be done by them or in their names shall and may be lawfully done by them or in their name and style as a corporation.

Proviso.

Provided, however, that the seal of the said corporation shall not be affixed to any instrument except in the presence of at least one of the Commissioners, who shall sign his name to the instrument in token of his presence, and such signing shall be independent of the signing of any person who may sign the instrument as a witness.

Corporation may appoint officers or agents.

4 The said corporation, with the sanction of the Governor, may from time to time under their common seal appoint such officer or officers, agent or agents, as they may consider necessary for recovering all dividends, interest, or other revenue to be derived from all lawful investments already made, or which may hereafter be made by them, or for otherwise carrying out the provisions of the principal Ordinance and of this Ordinance; and all persons so appointed shall hold office during the pleasure of the said corporation.

1st November, 1886.

No. 14 of 1886.

An Ordinance relating to British and Foreign Postage Stamps.

WHEREAS it is expedient to provide against the manufacture or issue of counterfeit British or foreign postage stamps in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

1 For the purposes of this Ordinance, "fictitious stamp" means any facsimile, or imitation, or representation, whether on paper or otherwise, of any stamp for denoting any rate of postage, including any stamp for denoting a rate of postage of Great Britain, India, or any of Her Majesty's colonies, excepting Ceylon, or of any foreign country. **Interpretation clause: "Fictitious stamp."**

2 It shall not be lawful for any person to— **Prohibition of fictitious stamps.**

(*a*) Make, knowingly utter, deal in, or sell any fictitious stamp, or knowingly use for any postal purpose any fictitious stamp; or

(*b*) Have in his possession, unless he shows a lawful excuse, any fictitious stamp; or

(*c*) Make, or, unless he shows a lawful excuse, have in his possession any die, plate, instrument, or materials for making any fictitious stamp.

Any person who acts in contravention of this section shall be guilty of an offence, and liable on conviction to a fine not exceeding two hundred rupees, or to simple or rigorous imprisonment for a term not exceeding two years, or to both. **Penalty.**

Any stamp, die, plate, instrument, or materials found in the possession of any person in contravention of this section may be seized, and shall be forfeited to Her Majesty and her successors. **Forfeiture.**

3 This Ordinance shall not affect the enactments contained in sections 248 to 256 of the Ceylon Penal Code, which said enactments shall continue to have full force and effect. **This Ordinance not to affect sections 248 to 256 of the Ceylon Penal Code.**

4th December, 1886.

No. 15 of 1886.

An Ordinance to prevent Spirituous or Fermented Liquors being taken on board Her Majesty's Ships without the consent of the Commanders thereof.

WHEREAS it is expedient, for the purpose of maintaining discipline in Her Majesty's ships in colonial waters, to provide that no spirituous or fermented liquor shall be carried on board such ships without the consent of the commanders thereof: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

No spirituous or fermented liquor of any description to be taken on board Her Majesty's ships without the commander's consent.

Right of search.

Forfeiture.

Right to seize with or without warrant.

1 It shall not be lawful for any person to take any spirituous or fermented liquor of any description on board any of Her Majesty's ships or vessels in any part of the sea adjacent to the coast of this island and within the territorial sovereignty of Her Majesty, without the previous consent of the officer commanding the ship or vessel on board of which the same may be taken ; and it shall be lawful for any officer in Her Majesty's service, or warrant or petty officer of the navy, or non-commissioned officer of marines, with or without seamen or persons under his command, to search any boat or vessel hovering about or approaching, or which may have hovered about or approached, any of Her Majesty's ships or vessels ; and if any spirituous or fermented liquor be found on board such boat or vessel, to seize such spirituous or fermented liquor, and the same shall be forfeited to Her Majesty and her successors ; and if any person shall take any spirituous or fermented liquor on board any of Her Majesty's ships or vessels without such previous consent as aforesaid, or shall approach or hover about any of Her Majesty's ships or vessels for the purpose of taking any spirituous or fermented liquor on board the same, without such previous consent, or for the purpose of giving or selling, without such previous consent, spirituous or fermented liquor to men in Her Majesty's service, every such person shall, upon a summary conviction thereof before a police magistrate, pay a fine not exceeding one hundred rupees for every such act or offence ; and it shall be lawful for any officer in Her Majesty's service, or any such warrant or petty officer, or non-commissioned officer as aforesaid, or for any police officer, with or without any warrant or other process, to apprehend or cause to be apprehended any such offender or person so acting, and to bring him or cause him to be brought before any police magistrate, for the purpose of having the offender summarily convicted of the same.

4th December, 1886.

No. 17 of 1886.

An Ordinance to amend "The General Cemeteries Ordinance, 1862."

(*See No. 12 of 1862.*)

Preamble.

WHEREAS "The General Cemeteries Ordinance, 1862," requires in some respects to be amended : It is hereby enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

This Ordinance and the Ordinance No 12 of 1862 to be read and construed together.

1 This Ordinance and "The General Cemeteries Ordinance, 1862," hereinafter called "the principal Ordinance," shall be construed and read as one Ordinance.

2 Where any portion of a general cemetery has been or shall hereafter be set apart for the special use of any religious denomination under section 12 of the principal Ordinance, such portion shall, for the purposes of the principal Ordinance, but for no other purpose whatsoever, vest in the person or persons to whom such portion has been or may hereafter be conveyed, by deed executed by the Governor, in trust for such denomination.

Portion of cemetery set apart for use of any religious denomination to vest in trustees.

3 It shall be lawful for such person or persons acting as trustee or trustees to appoint from time to time a board of management, consisting of three or more members; and such board, or a majority of the members thereof, may exercise any of the following powers in respect of such portion of any cemetery as aforesaid, anything which may be contained in the principal Ordinance to the contrary notwithstanding:

Trustees may appoint board of management.

Powers of board defined.

(*a*) Power to appoint a keeper, grave-diggers, and other servants necessary for the care and use of such portion of any cemetery;

(*b*) Power to grant the exclusive right of burial in any plot or plots of land within such portion, or the right of one or more burials therein, or the right of placing any monument or gravestone over any grave, or any tablet or monumental inscription on the walls of any chapel or building within such portion.

Every grant under this section shall be in writing, and signed by a member of, or by the keeper appointed by, such board, in the presence of one or more witnesses, and shall be issued on payment of such fee or fees as such board shall determine with the approval of the Governor in Executive Council.

4 All burials shall be registered in register books to be kept for that purpose by the keeper appointed by such board; and such books or certified copies or extracts therefrom shall be received in all courts as *primâ facie* evidence of such burials; and copies or transcripts thereof shall be from time to time sent by such keeper to such public officer as shall be appointed by the Governor to receive the same.

Register of burials

5 Such board of management shall keep or cause to be kept a register in due form of the grants issued under section 3, and such register shall be open to inspection at all reasonable times by any grantee or other person claiming the right of exclusive burial by assignment from such grantee, upon payment of a fee of fifty cents.

Register of grants.

6 Every assignment of the exclusive right of burial shall be valid if executed before one or more witnesses, and every such assignment shall, within six months after the execution thereof, be produced to such board, who shall, upon payment of a fee of fifty cents, cause an entry of such assignment to be made in the register in the same manner as that of the original grant, and until such entry no right of burial shall be acquired under any such assignment.

Assignment of exclusive right of burial.

Fees payable to board.

7 All fees payable under section 21 of the principal Ordinance in respect of any portion of any cemetery set apart for the special use of any religious denomination, and all fees payable under this Ordinance, shall be paid to, and appropriated by, the board of management for such portion, and shall be duly applied towards the proper upkeep and maintenance of the same.

Effect of sections 22 and 23 of Ordinance No. 12 of 1862.

8 Nothing herein contained shall relieve the general keeper of any cemetery who may be appointed by the Governor under section 17 of the principal Ordinance from the duties imposed upon him by section 22 of that Ordinance; but no such keeper, after the coming into operation of this Ordinance, shall execute any grant under section 23 of the principal Ordinance in respect of any portion of such cemetery which is set apart for the special use of any religious denomination.

23rd December, 1886.

No. 18 of 1886.

An Ordinance relating to the Protection of Wild Birds.

Preamble.

WHEREAS it is expedient to provide for the protection of wild birds in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may for all purposes be cited as "The Wild Birds Protection Ordinance, 1886."

Interpretation clause.

2 The words "wild birds" shall, for all the purposes of this Ordinance, be deemed to mean all wild birds.

Government agent may declare close season or seasons in his province, or in any district or districts thereof.

3 It shall be lawful for the government agent of each province to declare, by notification in the *Government Gazette*, and by such other means as to him shall seem expedient for giving due publicity thereto, what shall be observed as the close season, during which wild birds shall not in anywise be destroyed in such province. And it shall be lawful for the government agent, by such notification, either to specify different close seasons for different species of wild birds, or to declare one close season for all wild birds excepting any particular species thereof; and the government agent may, by the said notification, limit such close season or close seasons aforesaid to any particular district or districts of his province.

Penalties for shooting, taking, or possessing wild birds, or their feathers or skins.

4 Any person who during the close season in any year after the passing of this Ordinance shall knowingly and wilfully shoot, or attempt to shoot, or shall use any boat for the purpose of shooting or causing to be shot, any wild bird in respect of which such close season shall have been declared, or shall use any lime, trap, snare, net, or other instrument for the purpose of taking such wild bird, or shall expose or offer for sale, or shall have in his control or possession

during the close season such wild bird recently killed or taken, or the feathers or skin of such wild bird recently killed or taken, shall be guilty of an offence, and punished by a fine not exceeding ten rupees.

Provided that a person shall not be liable to be convicted of exposing or offering for sale, or having the control or possession of such wild bird recently killed or taken, or the feathers or skin of such wild bird recently killed or taken, if he satisfies the court before whom he is charged either— **Proviso.**

(*a*) That the killing or taking of such wild bird, if in a place to which this Ordinance applies, was lawful at the time when it was killed or taken ; or

(*b*) That such wild bird was killed or taken in some place to which this Ordinance does not apply, and the fact that the wild bird was imported from some place to which this Ordinance does not apply shall, until the contrary is proved, be evidence that the bird was killed or taken in some place to which this Ordinance does not apply ; or

(*c*) That he came into possession of such feathers or skin at a time when the killing or taking of the bird from which such feathers or skin were taken was lawful.

Penalty for refusing to give name and place of abode.

5 Where any person shall be found offending against this Ordinance, it shall be lawful for any person to require the person so offending to give his name and place of abode, and in case the person so offending shall, after being so required, refuse to give his real name or place of abode, or give an untrue name or place of abode, he shall be guilty of an offence, and punished by a fine not exceeding ten rupees.

Offences to be prosecuted before a police court or village tribunal.

6 All offences under this Ordinance may be prosecuted before a police court or village tribunal having in other respects jurisdiction ; and it shall be lawful for such court or tribunal to award to the informer in any case any sum not exceeding a moiety of the fine actually recovered and realized.

Governor may extend or vary the close season, and make the same applicable to particular species of birds.

7 The Governor may, by order under his hand, extend or vary any close season or seasons appointed under section 3, and such extended or varied close season may, by the said order, be limited to any particular district or districts of any province, and to any particular species of wild birds, after the making of which order the punishments imposed by this Ordinance in respect of such wild birds shall in such district or districts apply only to offences committed during the time specified in such order. Every such order as aforesaid shall be published in the *Government Gazette*, and a copy of the *Government Gazette* containing any order made under this section shall be evidence of the same having been made.

Commencement.

8 This Ordinance shall come into operation on the first day of January, 1887.

23rd December, 1886.

No. 20 of 1886.

An Ordinance to amend the Law relating to Vaccination.

Preamble.

WHEREAS it is expedient to amend the law relating to compulsory vaccination in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title. Commencement.

1 This Ordinance may be cited as "The Vaccination Ordinance, 1886;" and it shall come into operation upon such day as shall be named by the Governor, in a Proclamation* to be published in the *Government Gazette*.

Repeal of Ordinance No. 9 of 1863.

2 There shall be repealed, as from and after the date of this Ordinance being brought into operation in manner hereinbefore provided, the Ordinance No. 9 of 1863, intituled "An Ordinance to extend and make compulsory the practice of Vaccination:" Provided that such repeal shall not affect—

(*a*) The past operation of anything duly done or suffered under the said Ordinance;

(*b*) Any penalty or forfeiture incurred in respect of any breach of the provisions of the said Ordinance hereby repealed; nor

(*c*) Any legal proceeding or remedy in respect of such penalty or forfeiture as aforesaid.

Interpretation clause:

3 For the purposes of this Ordinance, unless the context otherwise requires—

"Adult."

"Adult" shall mean a person apparently of the age of twelve years and upwards;

"Child."

"Child" shall mean a person apparently more than three months and less than twelve years old;

"Parent."

"Parent" shall include the father and mother of a legitimate child, and the mother of an illegitimate child;

"Guardian"

"Guardian" shall mean the person who, by reason of the death, illness, absence, or inability of the parent, or other cause, shall have the care or custody of any child;

"Estate."

"Estate" shall include every estate in which labourers are employed having ten acres of land actually cultivated with coffee, tea, cacao, cardamoms, cocoanuts, or cinchona, or any of those products;

"Superintendent."

"Superintendent" shall include any person for the time being in the immediate charge of any estate.

Division of districts and appointment of places for the purposes of vaccination.

4 Whenever the Principal Civil Medical Officer shall signify to the government agent of any province that he is ready to undertake vaccination in any district within such province, it shall be the duty of the government agent, in conjunction with the Principal Civil Medical Officer and the

* Proclaimed the 1st day of July, 1887.

superintendent of vaccination of that province, forthwith to divide such district into convenient divisions, for the purpose of affording increased facilities for vaccination, and to appoint a convenient place or places in each such division for the performance of such vaccination, and to take the most effectual means for giving from time to time, to all persons resident within such divisions, due notice of the days and hours at which an officer will attend at such place or places to vaccinate all persons not already successfully vaccinated who may then appear there, and also of the days and hours at which an officer will attend at such place or places to inspect the progress of such vaccination in the persons so vaccinated, and to collect vaccine lymph from them.

Every adult person to present himself to be vaccinated or re-vaccinated.

5 Every adult who has no marks of successful vaccination or of smallpox, or who, if he has such marks, resides in a house or building in which there is a patient suffering from smallpox, shall present himself at the place so appointed nearest his residence for the purpose of being vaccinated or re-vaccinated; and the officer shall, and he is hereby required thereupon, or as soon after as it may conveniently and properly be done, to vaccinate or re-vaccinate the said adult.

Every parent or guardian to present child under his care to be vaccinated or re-vaccinated.

6 Every child who has no marks of successful vaccination or of smallpox, or who, if he has such marks, resides in a house or building in which there is a patient suffering from smallpox, shall be taken, or caused to be taken, by his parent or guardian to the place so appointed nearest the residence of such child, for the purpose of being vaccinated or re-vaccinated; and the officer shall, and he is hereby required thereupon, or as soon after as it may conveniently and properly be done to, vaccinate or re-vaccinate the said child.

Vaccination on estates. Superintendent to publish notice given by Government medical officer.

7 It shall be lawful for any Government medical officer, acting under the written authority of the Principal Civil Medical Officer, to give at least six days' previous notice in writing to the superintendent of any estate appointing a place in such estate and a day and hour at which an officer will attend for the performance of vaccination. Upon the receipt of such notice, it shall be the duty of the superintendent to cause the same to be duly published in the Tamil language in every cooly line within the said estate, and at the morning and evening muster of the labourers employed thereon.

Obligation of every parent or guardian of a child and of adult on estate.

8 Every parent or guardian on the said estate shall take or cause to be taken the child under his care, and every adult residing in any cooly line thereon, whether employed as a labourer or not, and whether previously vaccinated or not, and whether having already had the smallpox or not, shall present himself for inspection at the time and place so appointed as aforesaid, and the officer in attendance shall thereupon, or as soon after as it may conveniently and properly be done, vaccinate every child or adult who has no previous marks of successful vaccination or of smallpox, or re-vaccinate every child or adult who, notwithstanding he has such marks, resides in a house or building in which there is a patient suffering from smallpox.

Inspection to ascertain result of vaccination.

9 Upon the same day of the week following the day on which any adult or child has been vaccinated or re-vaccinated, as provided in sections 5, 6, and 8, such adult shall present himself at, and the parent or guardian shall again take or cause to be taken such child to, the same place and at the same hour as before, in order that the officer in attendance may ascertain by inspection the result of such operation, and, if he sees fit, take from such adult or child lymph for the performance of other vaccinations; and in the event of the vaccination being unsuccessful, such adult shall cause himself, and such parent or guardian shall cause such child, if the officer so directs, to be forthwith again vaccinated and inspected as on the previous occasion.

Penalty for washing out lymph or interfering with vaccine vesicles.

10 Whoever shall wilfully wash out or in any way remove the lymph from any puncture or punctures after vaccination, or cause or permit the same to be washed out or removed, and whoever shall, by the application of any substance, or otherwise, interfere with or prevent or cause to be interfered with or prevented the due perfection of any vaccine vesicle or vesicles, shall be guilty of an offence, and be liable to a fine not exceeding ten rupees.

Certificate of successful vaccination.

11 On and immediately after the successful vaccination of any adult or child, the officer who shall have performed or inspected the operation shall deliver to the adult vaccinated, or the parent or guardian of the child vaccinated, a certificate under his hand according to the form A in the schedule to this Ordinance; and shall also transmit at the end of every month a list of such certificates to the superintendent of vaccination of the district in which the operation was performed.

Course to be pursued where adult or child is not in a fit state to be vaccinated.

12 If such officer shall be of opinion that the adult or child is not in a fit and proper state to be vaccinated, he shall immediately deliver to such adult, or to the parent or guardian of such child, a certificate under his hand according to the form B in the schedule hereto, which certificate shall remain in force for a period (not exceeding six months) to be specified therein by the officer granting the same.

Certificate to last for the period specified therein, and to be renewed if need be.

13 The certificate required by the preceding section shall remain in force for the period specified therein; but the adult or the parent or guardian of the child shall be entitled to apply for a renewal thereof for any succeeding period which the officer appointed as aforesaid is hereby directed to grant, so long as he shall be of opinion that the adult or child is unfit for vaccination and is unvaccinated. If at any time when the adult or child presents himself, or is brought before him, the officer shall deem such adult or child to be in a fit and proper state for successful vaccination, he shall forthwith vaccinate the adult or child accordingly, and shall deliver to the adult, or the parent or guardian of the child, a certificate according to the form A in the said schedule: Provided, however, that if the said officer shall find that any adult or child whom he has three times unsuc-

Proviso.

cessfully vaccinated is insusceptible of successful vaccination, or that any adult or child coming to or brought to him has already had the smallpox, he shall deliver to such adult, or to the parent or guardian of such child, a certificate under his hand according to the form C in the schedule to this Ordinance, or to the like effect; and such adult or child shall thenceforth be exempted from vaccination for a period of seven years.

Principal Civil Medical Officer to keep register of persons vaccinated.

14 The superintendent of vaccination of every province in which the operation has been performed shall forward lists of the certificates sent to him under the 11th section to the Principal Civil Medical Officer, at such times and in such forms as such last-mentioned officer shall prescribe. And it shall be the duty of the Principal Civil Medical Officer to keep a register of the persons of whose successful vaccination lists shall have been transmitted to him as above provided, and at all reasonable times to allow search to be made of any such register in his keeping, and to give a copy or copies certified under his hand of any entry or entries in the same, on the payment of a fee of twenty-five cents for every search or certificate.

Penalty for breach of provisions of this Ordinance or of regulations framed thereunder.

15 Every adult who shall not cause himself to be vaccinated, and every parent or guardian who shall not cause the child under his care to be vaccinated (such adult or child not being certified to be in an unfit state for, or insusceptible of, vaccination), or who shall not on the day fixed by section 9 after the vaccination has been performed (in the case of the adult) present himself, or (in the case of the parent or guardian) take or cause to be taken the child for inspection according to the provisions in this Ordinance respectively contained, and every person who acts in contravention of, or fails to comply with, the provisions of sections 7 and 8, or any regulations duly made under section 16, or who hinders or obstructs any one in the discharge of any duty imposed upon him by this Ordinance or by any regulation duly made under section 16, and every officer who wilfully signs any false certificate under this Ordinance, shall be guilty of an offence, and be liable to a fine not exceeding ten rupees.

Principal Civil Medical Officer to provide books and forms, and frame regulations.

16 The Principal Civil Medical Officer shall, and he is hereby empowered and directed to, provide such books and forms, and, with the sanction of the Governor in Executive Council, from time to time frame such regulations, as he may deem requisite for carrying into full effect the provisions of this Ordinance. Provided that such regulations shall be published in the *Government Gazette*, and may at any time be amended or revoked by the Governor in Executive Council.

Headman to give lists of persons not vaccinated.

17 It shall be the duty of the headman of every district so to be divided as aforesaid for the purposes of vaccination, to provide the officers attending to vaccinate within such districts, whenever called upon so to do, with lists of adults or children to be vaccinated therein; and every headman neglecting or refusing so to do shall be liable to a fine not exceeding twenty rupees.

Police officers, headmen, &c., to assist in enforcing Ordinance.

18 It shall be the duty of all officers of the police force, and of all headmen and peace officers generally, and of all superintendents or employers of labour, to aid and assist in the carrying out of this Ordinance, and in the prevention of offences against the same, and every officer, headman, or superintendent, or employer of labour who shall fail to do so, or who, being cognizant of any such offence, shall fail to give information thereof, shall be guilty of an offence, and be liable on conviction to a fine not exceeding ten rupees.

Evidence in prosecutions.

19 In any prosecution under this Ordinance, for neglect on the part of any adult to procure the vaccination of himself, or on the part of any parent or guardian to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice of the requirements of the law in this respect; but if the defendant shall produce any such certificate as hereinbefore described, or a duly certified extract from the register mentioned in section 14, and shall prove that the certificate or extract relates to the adult or child referred to in such prosecution, the same shall be a sufficient defence for him, except in regard to the certificate marked B in the schedule hereto, when the time specified therein for the postponement of the vaccination shall have expired before the date when the prosecution shall have been commenced.

SCHEDULE.

FORM A.

Certificate of Successful Vaccination.

Name :———.
Age :———.
Sex :———.
Residence :———.
Date of Certificate :———.

———
Signature of Vaccinator.

FORM B.

Certificate of Unfitness for Vaccination.

Name :———.
Age :———.
Sex :———.
Residence :———.
Date of Certificate :———.

———
Signature of Vaccinator.

N.B.—This Certificate will remain in force for (*specify period, not exceeding six months*) only from the above date.

FORM C.

I, ———, hereby certify that I have ——— times unsuccessfully vaccinated ———, (the child of ———), in the District of ——— (*or*, that ——— has already had smallpox, *as the case may be*), and I am of opinion that ——— is insusceptible of successful vaccination for a period of seven years from this date.

Given under my hand this ——— day of ———, 18—.

———
Signature of Vaccinator.

31st December, 1886.

No. 22 of 1886.

An Ordinance to amend the Ordinance No. 9 of 1885, relating to the Protection of certain descriptions of Produce.

(*See No. 9 of 1885.*)

WHEREAS it is expedient to amend the Ordinance No. 9 of 1885, intituled "An Ordinance to further provide for the Protection of certain descriptions of Produce:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows : Preamble.

1 This Ordinance shall be read and construed as one with Ordinance No. 9 of 1885, herein referred to as the principal Ordinance. To be read with Ordinance No. 9 of 1885.

2 From and after the coming into operation of this Ordinance, section 3 of the principal Ordinance shall be repealed, and in lieu thereof the following enactment shall have effect : Repeal of section 3 of principal Ordinance.

Whenever the unripe fruit of the coffee or cacao tree or of the tea or cardamom plant or of the arecanut palm, or the bark, whether of the branch, root, or stem, of the cinchona tree, shall be found in the possession of any person who is unable to give a satisfactory account of his possession thereof, such person shall be deemed and adjudged guilty of an offence, and shall on conviction be liable to the punishments provided for the theft of prædial products under section 368 of "The Ceylon Penal Code." Provided that should the offence be one for which a person may be convicted before a police magistrate, such police magistrate may, in addition to any term of imprisonment to which the offender may be sentenced by him for such offence, order such offender to be whipped in the manner prescribed by sections 55 and 56 of "The Ceylon Penal Code," anything in such Code or in "The Criminal Procedure Code, 1883," to the contrary notwithstanding. Provided that the number of lashes or strokes to be inflicted shall in no case exceed twenty. Proviso.

3 The repeal of section 3 of the principal Ordinance shall not affect— Repeal not to affect past operation of section 3 of principal Ordinance.

(*a*) The past operation of the said section ; nor

(*b*) Any right, obligation, or liability acquired, accrued, or incurred thereunder ; nor

(*c*) Any penalty or punishment incurred in respect of any offence prescribed by the said section ; nor

(*d*) Any investigation, legal proceeding, or remedy in respect of any such right, obligation, liability, penalty, or punishment as aforesaid ; and every such investigation, legal proceeding, and remedy may be carried on as if this Ordinance had not passed.

31st December, 1886.

No. 1 of 1887.

An Ordinance to empower the Ceylon Government to borrow a further sum of Sixty-five thousand Rupees from the Ceylon Savings Bank, for the Construction, Repair, and Improvement of certain Irrigation Works.

Preamble.

WHEREAS by section 23 of "The Ceylon Savings Bank Ordinance, 1859," it is enacted that the several sums which shall from time to time be deposited in the Ceylon Savings Bank may be laid out at interest by the trustees thereof in securities of the Government of this island: And whereas it is expedient for the Ceylon Government to borrow from the said trustees of the said bank, upon the security of the general revenue of this colony, a sum not exceeding sixty-five thousand rupees in addition to the sum which the said Government is empowered by the Ordinance No. 24 of 1885 to borrow from the said bank, for the construction, repair, and improvement of certain irrigation works known as Kaláwęwa and Yódi-ela: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Authority to Governor to borrow sixty-five thousand rupees from Savings Bank for certain irrigation works.

1 It shall be lawful for the Governor in Executive Council, anything in the Ordinance No. 19 of 1884 to the contrary notwithstanding, to borrow from the trustees of the Ceylon Savings Bank, for the construction, repair, and improvement of the said irrigation works, any sum or sums of money not exceeding sixty-five thousand rupees in all (in addition to any sum or sums of money which may be borrowed under the Ordinance No. 24 of 1885), upon one or more writings obligatory in the form contained in the schedule hereto annexed, signed by the Governor under the public seal of this colony; and the amount so borrowed, and the interest thereon at the rate of four and a half per centum per annum, shall be, and the same are hereby charged on, and made payable out of, the general revenue of this island.

Governor to issue warrants for payment of annuity on account of principal and interest.

2 It shall be lawful for the Governor to issue his warrant upon the Colonial Treasury for the payment to the trustees of the Ceylon Savings Bank of an annuity of not less than five thousand rupees to be by them appropriated in liquidation, firstly, of the interest, and secondly, of the principal sums from time to time remaining unpaid, until the entire amount of the said loan, together with all interest due thereon, shall have been paid and satisfied.

When first warrant shall issue. Trustees to endorse receipt of money on writings obligatory.

3 The first of such warrants shall be issued by the Governor at the expiration of one year from the date of the first writing obligatory herein provided; and the trustees of the Ceylon Savings Bank shall endorse the receipt by them of the amount of each such warrant upon the said writing or writings obligatory, specifying the sum appropriated by them on account of principal and the sum appropriated by them on account of interest.

4 The money borrowed under the authority of this Ordinance shall be applied to the construction, repair, and improvement of the said irrigation works, and to no other purpose.

Appropriation of money borrowed.

SCHEDULE.

Form of Writing Obligatory.

The Government of Ceylon hereby binds itself to the Trustees of the Ceylon Savings Bank in the principal sum of ——— rupees, being money borrowed under the authority of Ordinance No. 1 of 1887, intituled "An Ordinance to empower the Ceylon Government to borrow a further sum of Sixty-five thousand Rupees from the Ceylon Savings Bank, for the Construction, Repair, and Improvement of certain Irrigation Works," which said principal sum, together with interest thereon at the rate of four and a half per cent. per annum, shall be repaid to the Trustees of the Ceylon Savings Bank by the Government of Ceylon in manner provided by the said Ordinance.

Colombo, ———, 18—. Governor.

18th January, 1887.

No. 3 of 1887.

An Ordinance empowering the Governor in Executive Council to extend the provisions of "The Small Tenements Ordinance, 1882," to places other than towns.

(*See No. 11 of 1882.*)

WHEREAS it is expedient to extend the provisions of "The Small Tenements Ordinance, 1882," to places other than towns: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation in the *Government Gazette*, from time to time to extend all or any of the provisions of the Ordinance No. 11 of 1882, anything in the said Ordinance to the contrary notwithstanding, to any place in this island other than a town, and to define in such Proclamation the limits of such place; and the Governor may, with the like advice, repeal such Proclamation, and may from time to time by like Proclamation alter or vary the limits of any such place.

Governor with advice of Executive Council may extend the provisions of Ordinance No. 11 of 1882 to places other than towns.

24th January, 1887.

No. 4 of 1887.

An Ordinance relating to Lands alienated by the Crown which are abandoned by the Owners thereof.

Preamble.

WHEREAS certain tracts of land originally alienated by the Crown have since been abandoned, and the owners thereof cannot be ascertained: And whereas it is expedient to provide that in the case of such lands and of all others which may hereafter be so alienated, and subsequently abandoned, the Crown shall have the right of resuming the same if, after due notice given and inquiry made, the owners or any persons lawfully claiming under them cannot be found: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Government agent to publish notice calling upon owners of abandoned lands to prefer their claims.

1 When any land in the colony which has been or which may hereafter be alienated by or on behalf of the Crown shall appear to the government agent of the province in which such land is situate to have been abandoned by the owner thereof for eight years or upwards, and such owner or any person lawfully claiming under him cannot be ascertained, notwithstanding all reasonably diligent inquiry made by such government agent, it shall be lawful for such government agent, with the sanction of the Governor, to declare by a notice in the English, Sinhalese, and Tamil languages, to be published six times at least in the *Government Gazette* and in any two local newspapers, and to be posted on such land, that if no claim to such land is made to him by or on behalf of any person able to establish a title thereto within the period (not being less than twelve months) specified in such notice, such land shall be resumed by the Crown.

When no claim is made, government agent to report and the Governor in Executive Council to make order of resumption by the Crown.

2 If no claim shall be made in pursuance of such notice as aforesaid, the government agent shall make a report to the Governor of the proceedings taken by him, which report shall contain a description of the land, together with the boundaries thereof, and shall state that no claim has been made thereto; and upon the receipt of such report, it shall be lawful for the Governor in Executive Council to make order that such land shall be resumed by the Crown; and the same shall thereupon be resumed by and become the property of the Crown free from all encumbrances.

Procedure when claim is made.

3 If within the period specified in such notice as aforesaid a claim shall be made, the government agent shall call upon the claimant to establish the same within such time as the government agent shall appoint, and shall inquire into such claim and record all such evidence as may be adduced before him in support thereof. The government agent shall thereafter make a report to the Governor of the proceedings taken by him, which report shall contain a

description of the land, with the boundaries thereof, and shall set forth the nature of the claim made in respect thereof, the evidence taken in support of such claim, and the finding of the government agent thereon.

4 If the Governor in Executive Council shall, upon such report as aforesaid, or after such further inquiry as he may deem expedient, be satisfied that a *primâ facie* right to the said land has been established, all further proceedings under this Ordinance in respect of such land shall cease; but if the Governor in Executive Council shall entertain any doubt as to such right, the Governor shall refer the claim to the district court of the district in which the land is situate; and the judge of such court shall thereupon fix a day for the investigation of the claim with notice thereof to the claimant and to the Attorney-General, and after hearing such evidence as the claimant or Attorney-General shall adduce, or the court may call for, the said judge shall decide whether in his opinion such right has or has not been established, and shall make such order as to costs as he shall deem just. Every such decision, however, shall be subject to an appeal, free from stamp duty, to the Supreme Court by the Attorney-General or by such claimant, and such appeal shall be subject to the same rules which govern interlocutory appeals from district courts.

If Governor in Executive Council be satisfied that the claim has been established, further proceedings shall cease.

If claim be doubtful, reference to district court.

Appeal.

5 If the decision of the district judge, or of the Supreme Court in the event of an appeal, shall be that such right has been established, all further proceedings in respect of such land under this Ordinance shall cease; but if such decision shall be that such right has not been made out by the claimant, it shall be lawful for the Governor in Executive Council to make order that the land shall be resumed by the Crown, and the same shall thereupon be vested in and become the property of the Crown free from all encumbrances.

Procedure on decision by district or Supreme Court.

Proceedings to cease or order of resumption to be made.

6 Whenever the Governor in Executive Council shall make an order of resumption under section 2 or section 5, a notification to that effect shall be published in the *Government Gazette* and posted on such land; and the production of the *Government Gazette* containing such notification shall be evidence of the resumption in all legal proceedings whatsoever.

Resumption to be notified in *Gazette*.

Notification proof of resumption.

7 Upon any government agent producing or causing to be produced such notification of resumption before the district court having jurisdiction within the district in which the resumed land is situate, it shall be lawful for such court, and it is hereby required forthwith to issue a writ of possession, directing the fiscal or deputy fiscal of such district to put and place such government agent or any person whom he may name in writing in possession of such land, for and on behalf of the Crown, and, if need be, remove therefrom any person or persons refusing to vacate the same.

District court to issue writ of possession in favour of the Crown upon production of notification of resumption.

Resumed land to be appraised.

8 Every land resumed by the Crown under section 2 or section 5 shall be appraised without delay by some person or persons appointed for that purpose by the Governor, and the appraised value shall be recorded in the office of the government agent of the province in which such land is situate.

Appraised value payable to owner within thirty years.

9 If within thirty years from the date of the notification of resumption being published in the *Government Gazette*, any person shall establish to the satisfaction of the Governor, in Executive Council, that he is entitled to be paid such appraised value or any part thereof, the same shall be paid to him by the Colonial Treasurer.

Power of district judge at investigations of claims.

10 The district judge when investigating any claim under this Ordinance shall have the same power of adjournment and of summoning and enforcing the attendance of claimants or witnesses, and of examining them on oath or affirmation, and of enforcing answers, and of calling for and enforcing the production of documents, as he has when dealing with cases in his ordinary civil jurisdiction; and

False evidence.

every person wilfully giving false evidence at any investigation held by a district judge under this Ordinance shall be liable to the pains and penalties of perjury.

Power of government agent at inquiries into claims.

11 The government agent while holding an inquiry under section 3 may exercise all or any of the powers vested in a commissioner acting under the provisions of Ordinance No. 9 of 1872; and every person who shall wilfully give false evidence before him shall be liable to the pains and penalties of perjury.

Form of claim under this Ordinance.

Claimant to name place for service of notices.

12 Every claim made under this Ordinance to the government agent shall be in writing, and signed by the person making the same, and shall set forth the name and address of the claimant in full, and the place at which he is willing to accept service of notices; and any notice put in the post addressed to the claimant at such place shall be deemed to have been duly served.

Penalties.

False statement.

13 Any person who shall wilfully and knowingly insert anything that is false in any statement of claim made to the government agent, and any person who, for the purpose of setting up a false claim to any land subject to the provisions of this Ordinance, shall wilfully and knowingly make any false statement (not on oath or affirmation) to the government agent at any inquiry held under the provisions of this Ordinance, shall be guilty of an offence and liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for any period not exceeding six months, or to both.

Resisting or obstructing officers.

14 Any person who shall offer any resistance or obstruction to any fiscal or deputy fiscal, or to any government agent or other person acting under the provisions of section 7, shall be guilty of an offence, and shall be liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for a term not exceeding six months, or to both.

15 No informality or irregularity occurring in any proceedings taken under this Ordinance shall be held to invalidate or affect the title of the Crown or any purchaser or grantee from the Crown to any land resumed under this Ordinance. Provided, however, that nothing herein contained shall prevent any person from claiming damages against the Crown, if he has been substantially prejudiced by any such informality or irregularity.

Defect in proceedings not to affect title of the Crown.

Proviso.

16 This Ordinance may be cited for all purposes as "The Lands Resumption Ordinance, 1887."

Short title.

24th January, 1887.

No. 6 of 1887.

(*As amended by No. 1 of 1893.*)

An Ordinance to regulate the Importation, Possession, Transport, and Hawking of Petroleum and other Fluids of a like nature.

WHEREAS it is expedient to amend the law relating to the importation, possession, and transport of petroleum and other fluids of a like nature, and to provide regulations for hawking the same: It is hereby enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 This Ordinance may be cited as "The Petroleum Ordinance, 1887," and it shall come into operation at such time as the Governor shall appoint by Proclamation to be published in the *Government Gazette.*

Short title.

Commencement.

2 There shall be repealed, as from and after the date of this Ordinance coming into operation, the Ordinance No. 3 of 1878, intituled "An Ordinance for the safe keeping of Petroleum and other substances of a like nature," and all regulations heretofore made thereunder: Provided that such repeal shall not affect any liability, penalty, forfeiture, or punishment incurred under the last-mentioned Ordinance, or any regulations made thereunder, or any investigation, legal proceeding, or remedy in respect of any such liability, penalty, forfeiture, or punishment; and any such investigation, legal proceeding, or remedy may be carried on as if this Ordinance had not passed.

Repeal of Ordinance No. 3 of 1878.

3 In this Ordinance, unless the subject or context otherwise requires—

Definition clause.

"Petroleum" includes also the liquids commonly known by the names of rock oil, Rangoon oil, Burmah oil, kerosine, paraffin oil, mineral oil, petroline, gasoline, benzol, benzoline, benzine, and any inflammable liquid that is made from petroleum, coal, schist, shale, peat, or any other bituminous substance, or from any products of petroleum; but

"Petroleum."

it does not include any oil ordinarily used for lubricating purposes, and having its flashing point at or above two hundred degrees of Fahrenheit's thermometer;

"Dangerous petroleum." "Dangerous petroleum" means petroleum having its flashing point below seventy-six degrees of Fahrenheit's thermometer. Provided that when all or any of the petroleum on board a ship or in the possession of a dealer is declared by the master of the ship or the consignee of the cargo, or by the dealer, as the case may be, to be of one uniform quality, the petroleum shall not be deemed to be dangerous if the samples selected from the petroleum have their flashing points, on an average, at not less than seventy-six degrees of Fahrenheit's thermometer, and if no one sample has its flashing point below seventy-three degrees of that thermometer;

"Flashing point." "Flashing point" means the lowest temperature at which the petroleum yields a vapour which will furnish a momentary flash or flame when tested, in accordance with the directions in the schedule to this Ordinance, with an Abel's test apparatus which has been stamped and certified as provided by this Ordinance within a period of five years immediately preceding the date on which the apparatus is used for the testing, and after the corrections, if any, which the certificate declares are to be applied to the results of the testing, have been made;

"Person." "Person" includes a body corporate;

"Ship." "Ship" includes anything made for the conveyance by water of human beings or property;

"Master." "Master" includes every person, except a pilot or harbour master, having for the time being the charge or control of a ship;

"Transport." "Transport" means to remove from one place to another within this island;

"Carriage." "Carriage" means any carriage, wagon, cart, truck, vehicle, or other means of conveyance by land, in whatever manner the same may be drawn or propelled, but does not include any carriage, wagon, or truck employed on the railway;

"To hawk." A person shall be deemed for the purposes of this Ordinance to "hawk" petroleum, if by himself or his servants he goes about carrying petroleum to sell, whether going from district to district, or town to town, or village to village, or to other men's houses; or selling it in the streets of the place of his residence or otherwise, and whether with or without any horse or other beast bearing or drawing burden;

"Local authority." "Local authority" means any public officer appointed by the Governor to issue licenses under this Ordinance.

Petroleum.

Dangerous Petroleum.

4 No quantity of dangerous petroleum exceeding forty gallons shall be imported, or transported, or kept by any one person, or on the same premises, except under and in accordance with the conditions of a license from the local authority; and such license shall be granted as next hereinafter provided.

Dangerous petroleum in quantities exceeding forty gallons.

5 Every application for such a license shall be in writing, and shall declare—

Application for license to import, transport, or possess such petroleum.

(*a*) The quantity of such petroleum which it is desired to import, transport, or possess, as the case may be;

(*b*) The premises at and the vessels in which such petroleum is to be stored;

(*c*) The purpose for which the applicant believes such petroleum will be used; and

(*d*) That petroleum other than dangerous petroleum cannot be used for such purpose.

6 If the local authority sees reason to believe that such petroleum will be used for such purpose, and that no petroleum other than dangerous petroleum can be used for such purpose, he may grant such license for the importation, transport, or possession, as the case may be, of such petroleum, absolutely or subject to such conditions as he thinks fit.

Power to grant license.

7 No quantity of dangerous petroleum equal to or less than forty gallons shall be kept or transported without a license from the local authority: Provided that nothing in this section shall apply in any case where the quantity of such petroleum kept by any one person, or on the same premises, or transported, does not exceed three gallons, and such petroleum is placed in separate glass, earthenware, or metal vessels, each of which contains not more than a pint, and is securely stopped.

Dangerous petroleum in quantities not exceeding forty gallons.

Proviso.

8 All dangerous petroleum—

Vessels containing dangerous petroleum to be labelled.

(*a*) Which is kept at any place after seven days from the date on which it is imported; or

(*b*) Which is transported; or

(*c*) Which is exposed for sale;

shall be contained in vessels which shall bear a label in conspicuous characters in the English, Sinhalese, and Tamil languages, stating the nature of the contents thereof, with the addition of the words "highly inflammable," and with the addition—

(*d*) In the case of a vessel kept, of the name and address of the consignee or owner;

(*e*) In the case of a vessel transported, of the name and address of the sender; and

(*f*) In the case of a vessel sold or exposed for sale, of the name and address of the vendor.

Petroleum Generally.

Owner or master of ship carrying petroleum to give notice on entering into port.

9 The owner or master of every ship carrying a cargo, any part of which consists of petroleum, on entering any port of this island shall give notice of the nature of the cargo to the principal officer of customs of such port.

Power to make rules as to the importation of petroleum.

10 The Governor in Executive Council may from time to time make rules consistent with this Ordinance to regulate the importation of petroleum, and in particular—

(*a*) To determine the ports at which only petroleum may be imported ;

(*b*) To ascertain the quantity and description of any petroleum on board any ship ;

(*c*) To determine the places at which, and the conditions on and subject to which, petroleum may be discharged into boats, landed, transhipped, or stored ;

(*d*) To provide for the selection by an officer specially appointed thereto by the Governor in this behalf, and for the delivery to him, either after or before petroleum has been landed, of samples of all petroleum landed or intended to be landed ;

(*e*) To provide, in the case of each consignment which is stated to be of one uniform quality, for the number of samples to be selected, and for the averaging of the results of the testing of those samples ;

(*f*) To provide, where the results of the testing of the samples raise a doubt as to the uniformity of the quality of the petroleum in any such consignment, for the division of the consignment into lots, and for the selection and testing of samples of each lot, and for the treatment of the lot in accordance with the results of the testing of those samples ;

(*g*) To fix fees for the sampling and testing of petroleum ; and

(*h*) To fix fees for the storage of petroleum.

Procedure after petroleum has been discharged or landed.

Testing of samples.

11 Petroleum discharged into boats or landed in accordance with rules made under section 10 shall not be removed from the boats or places in or at which it is stored until the samples selected therefrom in accordance with those rules have been tested by an officer appointed by the Governor in this behalf in the manner described in the schedule to this Ordinance, with an apparatus which has been stamped and certified as provided by this Ordinance, and until the officer has given a certificate that the petroleum is not dangerous petroleum.

Governor may allow consignee to apply for a new license, or to rectify, or re-export.

12 If the officer, after testing the samples, refuses to give the certificate in respect of any petroleum, the Governor may permit the consignee, within a time to be fixed by him in this behalf—

(*a*) To rectify the petroleum ;

(*b*) To apply for a license to import the petroleum as dangerous petroleum; or

(*c*) To re-export the petroleum.

When Governor may dispose of petroleum.

13 If the consignee does not within the time fixed under section 12 avail himself of the permission granted under that section, the petroleum may be disposed of as the Governor directs.

Proviso.

Provided, however, that the Governor may, in his discretion, when the officer has refused the certificate, direct that the petroleum be re-tested by another officer appointed by him in this behalf, and may, if that officer advises that the petroleum is not dangerous petroleum, authorize its removal from the boats or places in or at which it is stored.

Possession and transport of petroleum.

14 No quantity of petroleum exceeding fifty gallons shall be kept by any one person or on the same premises, or shall be transported, except under and in accordance with the conditions of a license from the local authority.

Power to make rules as to such possession and transport.

15 The Governor in Executive Council may from time to time make rules consistent with this Ordinance as to the granting of licenses to possess or transport petroleum in cases where such licenses are herein required. Such rules may provide for the following among other matters; that is to say, in the case of licenses to possess petroleum—

(*a*) The nature and situation of the premises for which they may be granted; and

(*b*) The inspection of such premises, and the testing of petroleum found thereon;

in the case of licenses to transport petroleum—

(*c*) The manner in which the petroleum shall be packed, the mode and time of transit, and the route by which it is to be taken; and

(*d*) The stoppage and inspection of it during transit;

in the case of both such licenses—

(*e*) The fee to be charged for it;

(*f*) The quantity of petroleum it is to cover;

(*g*) The conditions which may be inserted in it;

(*h*) The time during which it is to continue in force; and

(*i*) The renewal of the license.

Power to inspect and require dealers to sell samples.

16 Any officer specially authorized, by name or by virtue of his office in this behalf, by the local authority, may require any dealer in petroleum to show him any place and any of the vessels in which any petroleum in his possession is stored or contained, to give him such assistance as he may require for examining the same, and to deliver to him samples of such petroleum on payment of the value of such samples.

Notice to be given when officer proposes to test samples.

17 When any such officer has, in exercise of the powers conferred by section 16, obtained a sample of petroleum in the possession of a dealer, he may give a notice in writing to such dealer informing him that he is about to test such

sample, or cause the same to be tested, with the apparatus and in the manner described in the schedule hereto annexed, at a time and place to be fixed in such notice, and that such person or his duly authorized agent may be present at such testing.

Certificate as to result of such testing.

18 On any such testing, if it appears to the officer or other person so testing that the petroleum from which such sample has been taken is or is not dangerous petroleum, such officer or other person may certify such fact, and the certificate so given shall be receivable as evidence in any proceedings which may be taken under this Ordinance against the dealer in whose possession such petroleum was found, and shall, until the contrary is proved, be evidence of the fact stated therein; and a certified copy of such certificate shall be given gratis to the dealer at his request.

Power to hawk petroleum.

19 Any person who is licensed to keep petroleum may, subject to any enactment for the time being in force with respect to hawkers and peddlers, hawk such petroleum by himself or his servants, provided he observes the following regulations:

Regulations for hawking petroleum.
[§ 3, 1 of 1893]

(*a*) The quantity of petroleum conveyed at one time in any one carriage shall not exceed twenty-four gallons, *except when conveyed in a cart specially constructed for the purpose, which has been licensed by writing under the hands of the local authority for the conveyance of petroleum;*

(*b*) The petroleum shall be conveyed in a closed vessel *or cart* so constructed as to be free from leakage;

(*c*) Proper care shall be taken to prevent any petroleum escaping into any part of a house or building, or of the curtilage thereof, or into a drain or sewer;

(*d*) All due precautions shall be taken for the prevention of accidents by fire or explosion, and for preventing unauthorized persons having access to the vessels containing the petroleum, and every person concerned in hawking the petroleum shall abstain from any act whatever which tends to cause fire or explosion, and is not reasonably necessary for the purpose of such hawking;

(*e*) No article or substance of an explosive or inflammable character other than petroleum, nor any article liable to cause or communicate fire or explosion, shall be in the carriage while such carriage is being used for the purpose of hawking petroleum.

Penalties.

Penalty for illegal importation, &c., of petroleum.

20 Any person who in contravention of this Ordinance, or of any rules made hereunder, imports, possesses, or transports any petroleum, and any person who otherwise contravenes any such rules or any conditions contained in a

license granted hereunder, shall be punished with simple or rigorous imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Penalty for keeping, transporting, selling, &c., petroleum in contravention of section 8.

21 Any person keeping, transporting, selling, or exposing for sale petroleum in vessels not marked or labelled, as prescribed by section 8, shall be punished with a fine which may extend to five hundred rupees.

Penalty for owner or master of a ship failing to give the required notice.

22 Any owner or master of a ship who fails to give the notice required by section 9 shall be punished with a fine not exceeding five thousand rupees, unless it is shown to the satisfaction of the court before which the case is tried that he did not know the nature of the goods to which the proceedings relate, nor could with reasonable diligence have obtained such knowledge.

Penalty for refusing to comply with section 16.

23 Any dealer in petroleum who refuses or neglects to show to any officer authorized under section 16 any place or any of the vessels in which petroleum in his possession is stored or contained, or to give him such assistance as he may require for examining the same, or to give him samples of such petroleum on payment of the value of such samples, shall be punished with a fine which may extend to two hundred rupees.

Penalty for hawking in breach of section 19.

24 In the event of any contravention of section 19 with reference to any petroleum, the licensee, by whom or by whose servants the petroleum was being hawked, shall be liable, on summary conviction, to a penalty not exceeding two hundred rupees : Provided that—

Proviso.

(*a*) Where some servant of the licensee or other person has in fact committed the offence, such servant or other person shall be liable to the same penalty as if he were the licensee ;

(*b*) Where the licensee is charged with a contravention of section 19, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge ; and if the licensee proves to the satisfaction of the court that he had used due diligence to enforce the requirements of the said section, and that the said other person had committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the licensee shall be exempt from any penalty.

Prosecution to be instituted in police court.

25 Every prosecution under this Ordinance or for the breach of any rules made hereunder may be instituted before the police magistrate of the district in which the offence was committed, wholly or in part, or where the offender is found ; and it shall be lawful for such magistrate to impose the full

fine or penalty provided herein or in any rule made under the provisions of this Ordinance, notwithstanding that such fine or penalty may exceed the sum which it is competent for him in the exercise of his summary jurisdiction to award.

Confiscation of petroleum.

26 In any case in which an offence under section 19, 20, or 21 has been committed, the convicting police magistrate may direct that—

(*a*) The petroleum in respect of which the offence has been committed ; or

(*b*) Where the offender is importing, transporting, hawking, or is in possession of any petroleum exceeding the quantity, if any, which he is permitted to import, transport, hawk, or possess, as the case may be, the whole of the petroleum which he is importing, transporting, hawking, or is in possession of ;

shall, together with the tins or other vessels in which it is contained, be confiscated.

Confiscations to be sold, &c, as magistrate may direct.

27 All confiscations may be sold or otherwise disposed of in such manner as the police magistrate may direct.

Test Apparatus.

Model test apparatus

28 A model of the apparatus for testing petroleum under this Ordinance, constructed substantially in accordance with the description contained in the schedule hereto, shall be deposited in the office of the Government Analyst at Colombo, and be marked with the words "Model Test Apparatus."

Verification of test apparatus.

29 The Government Analyst shall, on payment of such fee, if any, as the Governor in Executive Council may from time to time by notification in the *Government Gazette* prescribe, compare with the said model test apparatus and verify every apparatus for testing petroleum which is submitted to him for the purpose

Stamping and certifying.

30 If any apparatus for testing petroleum, when compared and verified as provided by section 29, is found correct, or correct subject to certain corrections to be applied to the results of the tests, the Government Analyst shall stamp the same with a special number, and with the date of the verification, and shall further give a certificate in writing under his hand to the effect that on the date aforesaid the apparatus was compared and verified by him and found to be correct, or correct subject to certain specified corrections to be applied to the results of the tests. A certificate granted under this section shall, until the contrary is proved, be conclusive proof of the matters stated therein.

Register of certificates.

31 The Government Analyst shall keep a register, in a form to be prescribed by the Governor in Executive Council, of the certificates granted under section 30 ; and subject to the payment of such fees as the Governor may from time to time prescribe in this behalf by notification in the *Government Gazette*, the said model test apparatus shall be at all reasonable times open to inspection by any person desiring to inspect it.

Miscellaneous.

Rules when to have force of law.

32 All rules made by the Governor in Executive Council under this Ordinance shall be published in the *Government Gazette*, and shall, on the expiry of one month from the date of such publication, have the force of law. Such rules may from time to time be altered, amended, or repealed by the Governor in Executive Council, and notice of such alteration, amendment, or repeal shall likewise be published in the *Government Gazette.*

Governor may exempt petroleum from operation of this Ordinance, may apply this Ordinance to other fluids, and limit operation of enactments relating to municipalities and local boards.

33 The Governor in Executive Council may from time to time, by notification in the *Government Gazette*—

(*a*) Exempt from the operation of all or any of the rules made under this Ordinance any petroleum which has its flashing point at one hundred and twenty degrees of Fahrenheit's thermometer, and is imported as ordinary cargo, and in quantity not exceeding that specified in the notification ;

(*b*) Apply the whole or any portion of this Ordinance to any inflammable fluid other than petroleum, and fix in substitution for the quantities of petroleum fixed by sections 4, 7, and 14 the quantities of the fluid to which those sections shall apply ;

(*c*) Limit in any manner he deems fit the operation of any enactment for the time being in force relating to municipalities or local boards, and the exercise of any powers conferred by any such enactment in so far as it relates to the possession or transport of petroleum.

Power to revoke or vary notification.

34 A notification made by the Governor in Executive Council under this Ordinance may be revoked or varied by a like notification published in the same manner as the notification so revoked or varied.

Police magistrates may grant search warrants for petroleum.

35 When any police magistrate is satisfied, by information on oath or affirmation, that there is reasonable ground to believe that any petroleum is being imported, kept, transported, sold, or exposed for sale within his jurisdiction in contravention of this Ordinance or of any rules made thereunder, at any place, whether a building or not, or in any ship or carriage, such police magistrate shall grant a search warrant, by virtue whereof it shall be lawful for any person named in such warrant to enter the place, ship, or carriage named in such warrant, and every part thereof, and examine the same and search for petroleum therein, and take samples of any petroleum found therein ; and if any petroleum be found therein which is imported, kept, transported, sold, or exposed for sale in contravention of this Ordinance or of any rules made thereunder, to seize and remove such petroleum and the vessel containing the same, and to detain such petroleum and vessel until the court having jurisdiction in the matter has determined whether the same shall or shall not be confiscated, the proceedings for which confiscation shall be commenced forthwith after the seizure. Any person

seizing any petroleum in pursuance of this section shall not be liable to any suit for detaining the same, or for any loss or damage incurred in respect of such petroleum, otherwise than by any wilful act or neglect.

Power of police officers to seize and detain petroleum for breach of section 19.

36 Where a police officer has reasonable cause to believe that a contravention of section 19 is being committed in relation to any petroleum, he may seize and detain such petroleum and the vessels and carriage containing the same until the court has determined whether there was or was not a contravention of the said section, and section 35 shall apply to such officer as if he were the person named in the warrant mentioned in that section, and as if the seizure were a seizure in pursuance of that section.

Burden of proof as to exceptions, exemptions, &c

37 Any exception, exemption, proviso, excuse, or qualification, whether it does or does not accompany the description of the offence in this Ordinance, may be proved by the defendant, but need not be specified or negatived in the plaint or information, and if so specified or negatived, no proof in relation to the matters so specified or negatived shall be required on the part of the informant or prosecutor.

SCHEDULE.

I.—Nature of the Test Apparatus.

The apparatus consists of the following parts :

(1) The oil-cup ;

(2) The cover, with slide test-lamp and clockwork arrangement for opening and closing the holes in the cover and for dipping the test-flame ;

(3) The water-bath or heating vessel ;

(4) The tripod stand, with jacket and spirit-lamp for heating the water-bath ;

(5) The thermometer for indicating the temperature of the oil in the oil-cup ;

(6) The thermometer for indicating the temperature of the water in the water-bath ;

(7) The thermometer for indicating the temperature of the oil before it is poured into the oil-cup ;

(8) The dropping bottle or *pipette* for replenishing the test-lamp ; and

(9) A barometer standardised at the Surveyor-General's Office, or at any other place appointed by the Governor.

The oil-cup is a cylindrical flat-bottomed vessel, made of gun-metal or brass, and tinned or silvered inside. A gauge is fixed to the inside of the cup to regulate the height to which it is to be filled with the sample under examination.

The cup is provided with a close-fitting overlapping cover, which carries the thermometer, the test-lamp, and the adjuncts thereto. The test-lamp is suspended upon two supports by means of trunnions, which allow it to be easily inclined to a particular angle and restored to its original position. The socket in the cover, which is to hold a round bulb thermometer for indicating the temperature of the oil during the testing operation, is so adjusted that the bulb of the latter is always inserted in a definite position below the surface of the liquid.

The cover is provided with three holes, one in the centre and two smaller ones close to the sides. These are closed and opened by means of a pivoted slide. When the slide is moved so as to uncover the holes, the suspended lamp is caught by a projection fixed on the slide, and tilted in such a way as to bring the end of the spout just below the surface of the lid. As the slide moves back so as to cover the holes, the lamp returns to its original position. Upon the cover, in front of and in a line with the nozzle of the lamp, is fixed a white bead, the diameter of which represents the size of the test-flame to be used.

The water-bath or heating vessel is so constructed that, when the oil-cup is placed in position in it, an air-space or air-chamber intervenes between the two ; consequently, in applying the test under ordinary circumstances, the heat is transmitted gradually to the oil from the hot water through the air-space. The water-bath is fitted with a socket for receiving a long bulb thermometer, to indicate the temperature of the water. It is also provided with a funnel, an overflow-pipe, and two handles.

The water-bath rests upon a tripod stand, which is fitted with a copper cylinder or jacket, so that the bath is surrounded by an enclosed air-space, which retains and regulates the heat. One of the legs of the stand serves as a support for a spirit-lamp, which is attached to it by a small swing bracket.

The clockwork arrangement, by which during the operation of testing the slide is withdrawn, and the test-flame dipped into the cup and raised again as the slide is replaced, is provided with a ratchet key for setting it in action for each test, and with a trigger for starting it each time that the test-flame is applied.

II.—Directions for Drawing the Sample and preparing it for Testing.

1. *Drawing the Sample.*—In all cases the testing officer or some person duly authorized by him shall personally superintend the drawing of the sample from an original unopened tin or other vessel.

An opening sufficiently large to admit of the oil being rapidly poured or syphoned from the tin or other vessel shall be made.

Two bottles, each of the capacity of about forty fluid ounces, are to be filled with the oil. One of these, the contents of which is intended to be preserved for reference in case of need, is to be carefully corked, the cork being well driven home, cut off level with the neck, and melted sealing-wax worked into it. The other bottle may be either stoppered or corked.

2. *Preparing the Sample for Testing.*—About ten fluid ounces of the oil, sufficient for three tests, are transferred from the bottle into which the sample has been drawn to a pint flask or bottle, which is to be immersed in water artificially cooled until a thermometer, introduced into the oil, indicates a temperature not exceeding fifty degrees Fahrenheit.

III.—Directions for Preparing and Using the Test Apparatus.

1. *Preparing the Water-bath.*—The water-bath is filled by pouring water into the funnel until it begins to flow out at the overflow-pipe. The temperature of the water at the commencement of each test, as indicated by the long bulb thermometer, is to be one hundred and thirty degrees Fahrenheit, and this is attained in the first instance by mixing hot and cold water, either in the bath or in a vessel from which the bath is filled, until the thermometer which is provided for testing the temperature of the water gives the proper indication ; or the water is heated by means of the spirit-lamp (which is attached to the stand of the apparatus) until the required temperature is indicated.

Petroleum.

2. *Preparing the Test-lamp.*—The test-lamp is fitted with a piece of cylindrical wick of such thickness that it fills the wick-holder, but may readily be moved to and fro for the purpose of adjusting the size of the flame. In the body of the lamp, upon the wick, which is coiled within it, is placed a small tuft of cotton wool, moistened with petroleum, any oil not absorbed by the wool being removed. When the lamp has been lighted, the wick is adjusted by means of a pair of forceps until the flame is of the size of the bead fixed on the cover of the oil-cup; should a particular test occupy so long a time that the flame begins to get smaller, through the supply of oil in the lamp becoming exhausted, three or four drops of petroleum are allowed to fall upon the tuft of wool in the lamp from the dropping bottle or *pipette* provided for that purpose. This can be safely done without interrupting the test.

3. *Filling the Oil-cup.*—The oil-cup having been previously cooled, by placing it bottom downwards in water at a temperature not exceeding fifty degrees Fahrenheit, is to be rapidly wiped dry, placed on a level surface in a good light, and the oil to be tested is poured in very slowly, without splashing, until its surface is level with the point of the gauge which is fixed in the cup. The round bulb thermometer is inserted into the lid of the cup, care being taken that the projecting rim of the collar touches the edge of the socket; the test-lamp, prepared as already described, is placed in position, and the cover is then put on to the cup and pressed down so that its edge rests on the rim of the cup.

4. *Application of the Test.*—The water-bath, with its thermometer in position, is placed in some locality where it is not exposed to currents of air, and where the light is sufficiently subdued to admit of the size of the entire test-flame being compared with that of the bead on the cover. The cup is carefully lifted without shaking it and placed in the bath, the test-lamp is lighted, and the clockwork wound up by turning the key. The thermometer in the oil-cup is now watched, and when the temperature has reached fifty-six degrees Fahrenheit the clockwork is set in motion by pressing the trigger.

If no flash takes place the clockwork is at once re-wound, and the trigger pressed at fifty-seven degrees Fahrenheit, and so on, at every degree rise of temperature, until the flash occurs, or until a temperature of ninety-five degrees Fahrenheit has been reached.

If the flash takes place at any temperature below seventy-seven degrees Fahrenheit, the temperature at which it occurs is to be recorded. The fresh portions of the samples are then to be successively tested in a similar manner and the results recorded. If no greater difference than two degrees Fahrenheit exists between any two of the three recorded results, each result is to be corrected for atmospheric pressure, as hereafter described, and the average of the three corrected results is the flashing point of the sample. In the event of there being a greater difference than two degrees Fahrenheit between any two of the results, the series of tests is to be rejected, and a fresh series of three similarly obtained, and so on until a sufficiently concordant series is furnished, when the results are to be corrected and the average taken in the manner already described.

No flash which takes place within eight degrees of the temperature at which the testing is commenced shall be accepted as the true flashing point of the sample tested. In the event of a flash occurring at or below sixty-four degrees when the test is applied in the manner above described the next testing shall be commenced ten degrees lower than the temperature at which the flash had been previously obtained (that is to say, at fifty-four degrees or thereunder), and this procedure shall be continued until the results of three consecutive tests do not show a greater difference than two degrees.

If a temperature of seventy-six degrees Fahrenheit has been reached without a flash occurring, the application of the test-flame is to be continued at every degree rise of temperature until a temperature of ninety-five degrees Fahrenheit has been reached. If no flash has occurred up to this point, and if the petroleum is declared to be imported subject to the provisions of the Ordinance, the tests shall not be continued, and the testing officer shall certify that the petroleum has a flashing point over ninety-five degrees and is not dangerous. But if the petroleum is oil ordinarily used for lubricating purposes, and is declared to have its flashing point at or above two hundred degrees, or is oil to which a notification of the Governor in Executive Council exempting it from the operation of the Ordinance will be applicable in the event of the flashing point being found to be at or above one hundred and twenty degrees, the test shall be continued as follows :—The oil-cup is to be removed from the water-bath, and the temperature of the water in the water-bath is to be reduced to ninety-five degrees Fahrenheit by pouring cold water into the funnel (the hot water escaping by the overflow-pipe). The air chamber is then to be filled to a depth of 1½ in., with water at a temperature of about ninety-five degrees Fahrenheit, the oil-cup is to be replaced in the water-bath, and the spirit-lamp attached to the water-bath is to be lighted and placed underneath. The test-flame is then to be again applied, from ninety-six degrees Fahrenheit, at every degree rise of temperature as indicated by the thermometer in the oil-cup until a flash takes place, or until a temperature of two hundred degrees Fahrenheit, or one hundred and twenty degrees Fahrenheit, as the case may be, has been reached. If during this operation the test-flame appears to diminish in size, the lamp is to be replenished in the manner prescribed at (2) without interrupting the test.

If a flash occurs at any temperature between seventy-six degrees and two hundred degrees Fahrenheit, the temperature at which it occurs, subject to correction for atmospheric pressure, is the flashing point of the sample.

In repeating a test a fresh sample of oil must always be used, the tested sample being thrown away, and the cup must be wiped dry from any adhering oil, and cooled, as already described, before receiving the fresh sample.

5. *Correction for Atmospheric Pressure.*—As the flashing point of an oil is influenced by changes in atmospheric pressure to an average extent of sixteen degrees Fahrenheit for every inch of the barometer, a correction of the observed flashing point may become necessary. The height of the barometer must, therefore, be determined at the time of making the test for the flashing point. The true height of the barometer for the purpose of the test shall be considered te be the height of the column of mercury measured at thirty-two degrees Fahrenheit, which is supported by the air pressure at the time of the experiment ; that is, the actual height of the barometer at the time of observation duly corrected for any error of the instrument and for its temperature if necessary. For the purpose of applying the correction to the flashing point of the oil obtained by the test, a table is appended to this schedule, giving the flashing points of oils ranging from sixty-five degrees to eighty degrees Fahrenheit under pressure ranging from twenty-seven to thirty-one inches of mercury.

The table is used in the following manner :—

Example.—An oil has given a flashing point of seventy-one degrees, the barometer being at 28·6 ; take the nearest number to seventy-one degrees in the vertical column headed 28·6. This number is 70·8. Substitute for this the number in the same horizontal line in the column headed 30 (the normal height of the barometer). The substituted number, that is, the true flashing point of the oil, is seventy-three degrees.

Table for Correction of Flashing Points indicated by the Test for Variations in Barometric Pressure on either side of Thirty Inches.

Barometer in Inches.

27	27·2	27·4	27·6	27·8	28	28·2	28·4	28·6	28·8	29	29·2	29·4	29·6	29·8	30	30·2	30·4	30·6	30·8	31
Flashing Point in Degrees Fahrenheit.																				
60·2	60·5	60·8	61·2	61·5	61·8	62·1	62·4	62·8	63·1	63·4	63·7	64	64·4	64·7	65	65·3	65·6	66	66·3	66·6
61·2	61·5	61·8	62·2	62·5	62·8	63·1	63·4	63·8	64·1	64·4	64·7	65	65·4	65·7	66	66·3	66·6	67	67·3	67·6
62·2	62·5	62·8	63·2	63·5	63·8	64·1	64·4	64·8	65·1	65·4	65·7	66	66·4	66·7	67	67·3	67·6	68	68·3	68·6
63·2	63·5	63·8	64·2	64·5	64·8	65·1	65·4	65·8	66·1	66·4	66·7	67	67·4	67·7	68	68·3	68·6	69	69·3	69·6
64·2	64·5	64·8	65·2	65·5	65·8	66·1	66·4	66·8	67·1	67·4	67·7	68	68·4	68·7	69	69·3	69·6	70	70·3	70·6
65·2	65·5	65·8	66·2	66·5	66·8	67·1	67·4	67·8	68·1	68·4	68·7	69	69·4	69·7	70	70·3	70·6	71	71·3	71·6
66·2	66·5	66·8	67·2	67·5	67·8	68·1	68·4	68·8	69·1	69·4	69·7	70	70·4	70·7	71	71·3	71·6	72	72·3	72·6
67·2	67·5	67·8	68·2	68·5	68·8	69·1	69·4	69·8	70·1	70·4	70·7	71	71·4	71·7	72	72·3	72·6	73	73·3	73·6
68·2	68·5	68·8	69·2	69·5	69·8	70·1	70·4	70·8	71·1	71·4	71·7	72	72·4	72·7	73	73·3	73·6	74	74·3	74·6
69·2	69·5	69·8	70·2	70·5	70·8	71·1	71·4	71·8	72·1	72·4	72·7	73	73·4	73·7	74	74·3	74·6	75	75·3	75·6
70·2	70·5	70·8	71·2	71·5	71·8	72·1	72·4	72·8	73·1	73·4	73·7	74	74·4	74·7	75	75·3	75·6	76	76·3	76·6
71·2	71·5	71·8	72·2	72·5	72·8	73·1	73·4	73·8	74·1	74·4	74·7	75	75·4	75·7	76	76·3	76·6	77	77·3	77·6
72·2	72·5	72·8	73·2	73·5	73·8	74·1	74·4	74·8	75·1	75·4	75·7	76	76·4	76·7	77	77·3	77·6	78	78·3	78·6
73·2	73·5	73·8	74·2	74·5	74·8	75·1	75·4	75·8	76·1	76·4	76·7	77	77·4	77·7	78	78·3	78·6	79	79·3	79·6
74·2	74·5	74·8	75·2	75·5	75·8	76·1	76·4	76·8	77·1	77·4	77·7	78	78·4	78·7	79	79·3	79·6	80	80·3	80·6
75·2	75·5	75·8	76·2	76·5	76·8	77·1	77·4	77·8	78·1	78·4	78·7	79	79·4	79·7	80	80·3	80·6	81	81·3	81·6

24th January, 1887.

Municipal Councils.

No. 7 of 1887.

(*As amended by No. 26 of 1890.*)

An Ordinance relating to Municipal Councils.

(*See No. 33 of 1884, No. 15 of 1887, No. 9 of 1892, No. 23 of 1892, and No. 9 of 1893.*)

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In the absence of chairman, councillors present to elect a president.

95 Quorum.

96 If no quorum, meeting to be adjourned.
Business to be disposed of at adjourned meeting.

97 Adjournment of meetings and disposal of adjourned business.

98 Minutes of proceedings to be open to inspection.
Fee for inspection.

99 Notices may be served by post.

Special Committees.

100 Special committees how appointed.
Proceedings to be written and submitted to council.

Powers and Duties of Standing Committee.

101 Standing committee may inspect accounts and call for explanation.

102 May conduct monthly audit of receipts and disbursements.

Municipal Councils.

Section.
103 Shall see to due appropriation of budget grants, and shall deal with applications for pensions, &c., and consider contracts.
104 May make rules to regulate proceedings.

Meetings of Standing Committee.

105 Standing committee shall meet at least once a month.
106 Who shall preside.
107 Quorum.
108 Special meetings may be called.
109 Estimate of receipts and expenditure to be submitted by chairman of municipal council in October every year, and to be considered by standing committee.

Municipal Budget.

110 Budget of income and expenditure and of taxes to be prepared, published, and circulated.
111 Budget to be laid before council in December every year.
112 Council may pass budget, or refer it back for consideration, or reject any items.
113 Supplemental budget to be submitted by chairman whenever necessary, and to be published and circulated.
114 Council may reduce or increase expenditure.

Municipal Annual Report.

115 Annual administration report to be prepared by chairman and submitted to council and Government.
Copies to be kept for sale.

Audit of Accounts.

116 Appointment of auditors.
117 Powers of auditors.
118 Penalty in case of persons refusing to produce documents, &c.
119 Auditors to submit report to council and Government.
120 Auditors may be remunerated.

Municipal Statistics.

121 Power of Government to call for statistics.

Power to make By-laws.

122 By-laws.
Purposes for which they may be made.
123 Power to alter, amend, or cancel.
124 By-laws require to be confirmed by Governor in Executive Council.
125 Existing by-laws to continue in force until superseded.
126 Copies of by-laws to be kept for sale.

Rates and Taxes.

127 Council may assess separate or consolidated rate or rates on real property for police, lighting, and water.
128 Tax on vehicles and animals.
129 Tax on dogs.

Section.

130 Inhabitants of the municipality liable to a tax payable in labour, or in money in commutation of such labour.

131 Tolls within the municipality.

132 Stamp duties and sums payable under the following Ordinances made over to the municipal fund :—

(*a*) Carriage Ordinance, 1873.
Masters Attendant's Ordinance, 1865.
Carriers' Ordinance, 1865.

(*b*) Butchers' Ordinance, 1859.
Firearms Ordinance, 1869.
Licensing Ordinance, 1873.
Poisons Ordinance, 1876.
Licensing Ordinance, 1877.
Opium Ordinance, 1878.

(*c*) Advocates' and Proctors' Ordinance, 1848.
Notaries' Ordinance, 1877.
Stamp Ordinance, 1884.

Recovery of Rates and Taxes.

133 Property to be valued.

134 When movable property may not be seized for more than two quarters' arrears.
Exceptions.

135 Tenant paying rates to avoid seizure of his property may deduct it from the rent.

136 Assessment under previous Ordinances may be adopted under this Ordinance.

137 Owner or occupier how to be designated if his name be unknown.

138 Returns may be required for purposes of valuation.
Power to enter houses.
Penalty for not furnishing returns.

139 New assessment or valuation book need not be prepared yearly.

140 Standing committee to revise assessment.

141 Remedy of persons dissatisfied with the assessment or non-assessment of rateable property.

142 Any person liable to any rate leaving the municipality during a quarter, may be made at once to pay such rate up to date.

143 Tax on vehicles and animals payable half-yearly in advance.
Not payable by person in possession for less than sixty days in half-year.

144 Chairman may compound with livery stable-keepers and others.

145 List of persons liable to the tax to be entered in a book.

146 Returns may be required for the purposes of making a list.

147 Power to inspect stables, &c., and to summon persons liable to the payment of the tax.

148 Penalty for disobeying summons or hindering the chairman.

149 If rate or tax not duly paid, warrant for recovery thereof to issue.
Costs.

150 Costs recoverable as per table of charges.

151 Property seized to be sold by auction after eight days.

152 Overplus arising from sale by distraint if unclaimed for twelve months to be forfeited.

153 Houses may be broken open in the daytime for purposes of seizure.

Section.
154 Certificate of sale of land or other immovable property.
Mortgagee paying to prevent sale may add amount paid to mortgage debt.
155 Council may purchase land sold for non-payment of rate or tax due
156 Council may take credit to extent of rate or tax and costs due.
157 Form of conveyance to the council.
158 Council may sell property vested in them.
159 Assessment, seizure, sale, &c., not to be impeached for want of form.

General Conservancy of the Town.

160 Power to make and improve streets ; and enter into contracts for tramways.
161 Power to take land adjoining new streets for building purposes.
Compensation for damages to adjoining land.
162 Power to agree for purchase of land for improving streets.
163 If necessary, land may be acquired as for public purposes.
164 Power to sell lands or buildings.
165 Power to sell streets.
166 Council to put up lamp-posts and lamps.
167 Council to keep up fire-engines.
168 Persons injuring lamps, lamp-irons, &c., to be punished.
169 Penalty on persons polluting streams which flow into reservoir or waterworks.
170 Cleansing streets.
171 Dust boxes in streets.
172 Place of deposit for filth.
173 All rubbish, &c., collected to be the property ot municipal council.
174 Watering streets.
175 Future obstructions in streets or roads
Power to remove obstruction.
Temporary obstructions on occasion of festivals, &c.
176 Erection of new huts to be under the control of standing committee.
177 Power of the chairman as to existing huts.
178 Houses may be set forward.
179 Projecting houses when taken down to be set back.
180 Names of streets.
181 Numbers on houses.
182 Troughs and pipes to be fixed to houses.
183 Projections from houses not to be allowed.
184 Projecting verandahs, &c., may be made in streets not less than thirty-six feet wide.
185 Houses in a ruinous and dangerous state.
186 Sale of materials of ruinous houses.
187 Power to shut up and secure deserted houses.

Section.
188 Power to enter and cleanse houses and buildings.
189 Overcrowding of houses.
190 Government or council to make public sewers.
191 Council to repair and alter and discontinue sewers.
192 Cleansing and emptying sewers.
193 Penalty for making unauthorized drains into public sewers.
194 Buildings over sewers, &c., not to be erected without consent of chairman.
195 Chairman may make drains from houses which are not properly drained.
196 Houses hereafter built in or near streets to have drains constructed under the orders of the chairman.
197 Level of houses hereafter built in or near street.
198 Notice of new buildings, in or near streets, to be given to chairman.
199 Chairman may signify disapproval within fourteen days.
200 Houses built without notice, or contrary to this Ordinance, may be altered by chairman.
201 If chairman fail to give instructions within fourteen days, parties may proceed without his approval.
202 Sewers in streets to be covered with traps, &c.
203 Power of chairman to erect or affix to buildings pipes for ventilation of sewers.
204 Common necessaries.
205 Penalty for omitting to prevent child from committing nuisance.
206 Chairman may order or cause additional privies to be constructed.
207 Chairman may cause persons employing large numbers of men to provide and maintain privies, urinals, &c.
208 Penalty for neglecting to enclose private privies.
209 If owners neglect to keep drains, &c., in good order, chairman may cause the same to be done and charge the owners with the expense.
210 Penalty for persons making or altering drains, &c., contrary to the orders of the chairman.
211 Inspection of drains and privies.
212 The municipal council may set apart bathing-places.
213 Maintenance in good repair of private tanks and wells.
214 Steps to be taken by chairman when water in private tank or well is unfit for drinking.
215 Procedure in case of refusal or neglect of person to comply with requisition made by chairman to owner of private tank, &c., to desist from using its water.
216 Power to fill up unwholesome tanks on private premises.
217 Power to drain off and cleanse stagnant pools in open places.
218 Chairman in executing works to provide roads, &c., where existing ones are injured.
219 Chairman breaking up street to restore the same with all convenient speed.
220 Hoards to be set up during repairs.
221 Bars to be erected across streets during repairs, and lights placed at night.

Municipal Councils.

Section.
222 Penalty for not fencing and lighting deposits of building materials or excavation.
223 Dangerous places near streets to be repaired or enclosed.
224 Council to regulate pasture lands, erect pounds, and make pound regulations.
225 Chairman to abate nuisances.

Public Markets.

226 Public markets vested in municipal council.
227 Municipal council may provide markets and charge rents and fees.
Recovery of rents and fees.
228 Municipal council may acquire land by purchase, lease, &c., and appropriate land vested in them to build markets on.
229 By-laws.
230 Power to expel persons breaking regulations, and to determine lease.
231 Power to sell or let markets.
232 Penalty for selling in market without permission.

Private Markets.

233 Private markets not allowed except with license.
236 Owner to apply for license.
Penalty for keeping open unlicensed markets.
237 Application for license to be made annually.
Chairman may grant or refuse license.
238 Penalty for keeping existing markets open after refusal to grant license.
239 Penalty for selling in such market.
240 Markets to be properly drained, &c.
241 Penalty for default.
242 Power to close market.
243 Penalty for not keeping market properly, or for not abating nuisance, or for obstructing.
244 Chairman may prohibit sale in streets.
245 Chairman may enter and inspect places of sale or stores, and examine articles of human food or drink.
Such articles if unwholesome may be detained.
Magistrate may order the same to be destroyed.
Liability on conviction.
Magistrate may return articles if in good condition, and order compensation for loss, &c.

Prevention of Infectious Diseases.

246 Information to be given by medical practitioner of existence of dangerous infectious diseases.
247 Chairman or health officer authorized thereto in writing to have power of entry for purposes of preventing spread of disease.
248 Carriages for conveyance of patients to be provided.
249 Chairman may order removal of patients to hospital.
250 Disinfection of buildings, &c.
251 Place for disinfecting clothing, bedding, &c., may be provided.
Also places for washing infected articles.
Infected articles may be destroyed.

Section.

252 Penalty for disposal of infected articles.

253 Penalty for exposure of infected persons.
Penalty if patient enters a public conveyance without notifying that he is suffering from infectious disease.
No owner or driver of a public conveyance required to convey such person.

254 Penalty for letting infected rooms.

Regulation of Offensive and Dangerous Trades.

255 Chairman may license slaughter-houses.

256 Council to provide places for slaughter-houses.

257 Slaughter-houses to be properly drained.

258 Penalty for using slaughter-houses during suspension or after revocation of license.

259 Offensive and dangerous trades existing within certain limits to be registered.
Penalty for establishing such trades without license.

260 Council may make by-laws for the management of such trades and places.

261 Suspension or revocation of license.

Police.

262 Expenses of police employed within the municipality to be paid out of the municipal fund.

Loans.

263 The council may borrow on security of rates and taxes.

264 Mortgages to be by deed.

265 When and how council may pay off securities.

266 Sinking fund for payment of debts.

267 Order of payment of mortgages may in certain cases be decided by lot.

268 Loans by Government to Galle and Kandy Municipalities for waterworks to continue chargeable on rates, taxes, rents, and other property of the said municipalities.

General Provisions for carrying out the purposes of this Ordinance.

269 Service of notice on owners and occupiers of buildings and lands.

270 Chairman, in default of owner or occupier, may execute works and recover expenses.

271 Power to levy charges on occupier, who may deduct the same from the rent.

272 Occupier not to be liable for more than the amount of rent due.

273 Occupier, in default of owner, may execute works and deduct expenses from the rent.

274 Proceedings if an occupier opposes the execution of the Ordinance.

275 Remedy if neither the owner nor occupier be able to pay.

276 Right of entry into houses.

277 Chairman may direct prosecutions.

Section.
278 No action to be instituted against council without one month's previous notice or after three months from the date of cause of action.
279 Council may make compensation out of municipal fund.
280 Fees for certain licenses.
281 Compensation, damages, and costs to be determined by magistrate.
282 Recovery of damages.
283 No person liable to fine or penalty unless complaint be made within three months after the offence is committed.
284 Damage to property of municipality to be made good in addition to penalty.
285 Prosecution before magistrate.
Recovery of fines and penalties.
286 Penalty leviable by distress.
287 Magistrate may imprison for default.
288 How fines are to be applied.
289 Recovery of expenses on account of improvements to private property.
290 Acts and notices may be done and given by any municipal officer specially authorized thereunto.

SCHEDULES.

A—Ordinances repealed.
B—Form of oath of allegiance.
Form of oath of office.
C—Rates of tax on vehicles and animals.
D—Form of notice of assessment.
E—Form of warrant of distress against defaulters.
F and G—Certificates of sale.
H—Form of mortgage.

No. 7 of 1887.

(*As amended by No. 26 of 1890.*)

An Ordinance relating to Municipal Councils.

(*See No. 33 of 1884, No. 15 of 1887, No. 9 of 1892, No. 23 of 1892, and No. 9 of 1893.*)

WHEREAS it is expedient to consolidate and amend the law relating to municipal councils in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble

Preliminary.

1 This Ordinance may be cited as "The Municipal Councils' Ordinance, 1887;" Short title.

And it shall come into operation at such time as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint.* Commencement.

2 There shall be repealed as from the commencement of this Ordinance— Repeal.

(*a*) The Ordinances specified in the schedule A to this Ordinance, to the extent in the third column of that schedule mentioned; and

(*b*) So much of any other Ordinance as is inconsistent with this Ordinance.

Provided that this repeal shall not affect— Proviso.

(*a*) Anything duly done or suffered under any enactment hereby repealed; or

(*b*) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or

(*c*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(*d*) Any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Ordinance had not passed.

Where any unrepealed Ordinance incorporates or refers to any provision of any Ordinance hereby repealed, such unrepealed Ordinance shall be deemed to incorporate or refer to the corresponding provisions of this Ordinance.

* Proclaimed the 1st day of August, 1887.

Interpretation clause

3 In this Ordinance, unless the context otherwise requires—

"Street"

"Street" means any road, street, square, court, alley, or passage, whether a thoroughfare or not, over which the public have a right of way, together with the land (not being private property), whether covered or not by any pavement, verandah, or other structure which lies between the roadway and the main wall of any house adjacent thereto; and also the roadway over any public bridge or causeway within the town, and such waste land adjoining any street or road as may have been reserved for its protection or benefit.

"Bridge

"Bridge" includes all bridges, sluices, dams, and bunds.

"Owner"

"Owner" includes the person for the time being receiving the rent of the land or premises in connection with which the word is used, whether on his own account, or as agent or trustee for any other person, or who would receive the same if such land or premises were let to a tenant.

Provided that no person receiving the rent of land or premises as agent for another person shall be liable to do anything by this Ordinance required to be done by the owner of such land or premises, unless he has sufficient funds of the owner to pay for the same; nor shall he be subject to any penalty for omitting to do such act, if he proves that the default was occasioned by reason of his not having funds of the owner sufficient to defray the expense of doing the act required.

"Person"

"Person" includes any association or body of persons, whether incorporated or not.

"Annual value"

"Annual value" means the gross annual amount at which a house, building, land, or tenement can reasonably be expected to let in average years without any deduction for expenses of repair, maintenance, or upkeep, or for public rates and taxes.

"Municipal council."

"Municipal council" means the municipal council as described in section 7 in their corporate capacity.

"The late municipal council."

"The late municipal council" means the municipal council formed of elected and appointed members under the provisions of Ordinance No. 17 of 1865 and of Ordinance No. 4 of 1883.

"Chairman"

"Chairman" means the officer appointed under section 47.

"Assistant chairman."

"Assistant chairman" means the officer appointed under section 49.

"Magistrate."

"Magistrate" means the police magistrate having jurisdiction within the municipality.

"Municipal magistrate."
[§ 7, *26 of 1890*]

"Municipal magistrate" means the magistrate specified in section 55, *and includes the additional municipal magistrate.*

"Government agent" includes the government agent or office assistant to the government agent of the province, and the assistant government agent of the district, within which a town created a municipality by Proclamation under section 4 is situated. "Government agent."

"Building" means any house, hut, shed, or roofed enclosure, whether used for the purpose of a human habitation or otherwise, and also any wall. "Building."

"Nuisance" means any act, omission, or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger, or damage to the sense of sight, smell, or hearing, or which is or is likely to be dangerous or injurious to health or property. "Nuisance."

"The municipal fund" means the moneys specified in section 78. "Municipal fund."

"The municipal office" means the office described in section 81. "Municipal office."

"Standing committee" means the committee specified in section 88. "Standing committee."

A person is said to "reside" in any dwelling in which he sometimes uses a sleeping apartment, although he does not use it uninterruptedly, or has elsewhere a dwelling where he has, and sometimes uses, another such apartment. A person does not cease to "reside" in a dwelling where he has such an apartment merely because he is absent from it, if there is the liberty of returning at any time, and no abandonment of the intention to return at pleasure. "Residence."

"Budget" means the budget specified in section 110. "Budget."

"Public market" means any place which has heretofore been a public market under Ordinance 17 of 1865, or which may hereafter be declared to be a public market by the chairman with the concurrence of the standing committee. "Market." [§ *1, 26 of 1890*]

"Private market" means any place (not being a public market) ordinarily used for the sale of animals, or of meat, fish, fruit, vegetables, or other perishable articles of food for human consumption. "Private market." [§ *1, 26 of 1890*]

"Populous localities" means such places as the Governor in Executive Council may, on the recommendation of the standing committee, declare to be populous by notification in the *Government Gazette*. "Populous localities."

Municipal Constitution.

4 For the purposes of this Ordinance, the towns of Colombo, Kandy, and Galle shall be and continue to be municipalities, and it shall be lawful to the Governor in Executive Council on the application of a reasonable number of the inhabitants of any other town, or if without such application it shall appear expedient, by Proclamation to be for that purpose published in the *Government Gazette*, to create a municipality in any other town in this colony; Colombo, Kandy, and Galle to continue municipalities. Power to create other towns into municipalities.

and thereupon the several provisions of this Ordinance shall apply and extend to and may be enforced within any such town as fully to all intents and purposes as if such town had been created a municipality by or before the passing of this Ordinance.

Governor may declare limits and divisions of municipalities

5 It shall be lawful to the Governor in Executive Council, by Proclamation to be published in the *Government Gazette*, to define, for the purposes of this Ordinance, the limits of the towns of Colombo, Kandy, and Galle, and of such other towns as may hereafter be created municipalities, and to divide each town into divisions, and such limits or divisions from time to time by like Proclamation to alter or vary.

And such limits or divisions may alter or vary

Existing limits and divisions of Colombo, Kandy, and Galle to continue in force

Until such Proclamation is made, the limits and divisions of the municipalities of Colombo, Kandy, and Galle, respectively, existing at the coming into operation of this Ordinance, shall continue to be in force.

Governor may alter number and limits of divisions

6 The Governor in Executive Council may, from time to time, by like Proclamation, alter the number or limits of the divisions of any municipality.

Municipal council.

Councillors to be elected or nominated.

Chairman to be *ex officio* councillor

Municipal council to be a corporation

7 The municipal affairs of every town which is a municipality shall be administered by a chairman and such number of councillors as shall be determined by the Governor in Executive Council. Such councillors shall be elected and nominated in manner hereinafter provided, but the chairman shall be a councillor *ex-officio*. Such chairman and councillors shall be styled the municipal council, and shall by such name be a body corporate, and shall have perpetual succession and a common seal, and power to acquire, hold, and sell property, and may by such name sue and be sued.

Proviso

Provided that nothing done under this Ordinance shall be deemed to be invalid by reason only that the number of councillors may be less than the number determined by the Governor in Executive Council.

Chairman and councillors of late municipal councils to continue in office under this Ordinance until appointment of successors.

8 The chairman and councillors appointed and elected under Ordinance No. 17 of 1865 and Ordinance No. 4 of 1883 for the respective municipalities of Colombo, Kandy, and Galle shall be the chairman and councillors for all the purposes of this Ordinance for the said municipalities, respectively, until the election under section 20 shall have taken place, when they shall cease to hold office, and shall be succeeded by the chairman and councillors appointed, nominated, and elected under this Ordinance.

Qualification for election as councillor

9 In order to be qualified to be elected a councillor, a person must—

(*a*) Be of the male sex ;

(*b*) Have completed his twenty-fifth year ;

(*c*) Be acquainted with the English language ;

(*d*) Be resident within the municipality ;

(*e*) Have paid all municipal rates and taxes due by him ;

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(*f*) Be possessed, either in his own right or in right of his wife, of immovable property within the municipality, the value of which, after allowing for any mortgaged debts thereon, is not less than five thousand rupees ; or

(*g*) Have been for the six months immediately preceding the occupier of a house within the division for which he desires to be elected, either as proprietor or tenant, of the annual value of not less than five hundred rupees.

No person being an officer in Her Majesty's army or navy on full pay or in active employment as such officer, and no officer or servant of the municipality so long as he remains in the employ of the municipality, except the chairman, shall be qualified to be a councillor.

One-half at least of the councillors to be elected.

Non-elected councillors to be nominated by Governor.

10 Of the councillors, one-half at least shall be elected. The councillors not elected shall be nominated by the Governor, provided that if their number be five, there shall be nominated at least one person who holds no office of emolument under the Ceylon Government, and who resides within the municipality ; and if their number be more than five and not exceeding eight, there shall be nominated at least two such persons ; and if their number be nine or more, there shall be nominated at least three such persons.

Election of councillors.

11 The councillors appointed by election shall be elected for the several divisions of the municipality by voters qualified as follows :

Qualification of voters.

In order to be a qualified voter under this section, a person must—

(*a*) Be of the male sex ;

(*b*) Have completed his twenty-first year ;

(*c*) *Reside within the municipality ;* [§ 2, 26 *of* 1890]

(*d*) Have paid all municipal rates and taxes due by him ;

(*e*) *He must also* have been for the six months immediately preceding the occupier of a house in the division for which he desires to vote, at a monthly rental of not less than fifteen rupees ; or [§ 2, 26 *of* 1890]

(*f*) Be possessed, either in his own right or in right of his wife, of a house situated within such division of the annual value of not less than one hundred and eighty rupees ; or

(*g*) Be the eldest son of a widow who is the proprietor or tenant of a house within such division of the annual value of not less than one hundred and eighty rupees ; or

(*h*) Be a graduate of some University in the United Kingdom or a British colony or India.

Votes of persons owning several houses in one or more divisions.

A person possessed of more than one house of the annual value of one hundred and eighty rupees in a division shall have a vote in respect of every such house ; and a person possessed of a house or houses in more divisions than one

shall have a vote for every such house of the annual value of one hundred and eighty rupees possessed by him in each such division. Every qualified voter under this section shall vote either in person or by his agent holding a duly executed power of attorney.

Joint stock companies may vote.

12 Any company registered under "The Joint Stock Companies' Ordinance, 1861," or any Act of Parliament, which has for the year preceding that in which an election takes place a registered office or other place of business of the annual value of one hundred and eighty rupees, shall be entitled to one vote in the division in which such registered office or place of business is situated. Such vote may be given by the secretary of the company or some other person duly authorized in that behalf.

Chairman of municipality, or government agent of town created a municipality by Proclamation. to prepare lists of persons entitled to be elected and to vote.

Two separate lists for each division.

13 As soon as convenient after the coming into operation of this Ordinance, or the publication of the Proclamation creating a municipality in any town as provided in section 4, the chairman, in the case of any town herein declared to be, and to continue to be a municipality, and the government agent, in the case of any town named in such Proclamation as aforesaid, shall prepare lists of persons duly qualified to be elected and to vote as provided by sections 9 and 11. There shall be two separate lists made for each division of the municipality: one containing the names of persons duly qualified to be elected, and another containing the names of persons duly qualified to vote.

Lists to be published in *Gazette*, and notice of publication to be given in local newspapers

14 The lists when prepared shall be published in the *Government Gazette*, and notice of such publication shall forthwith be given in two or more of the local newspapers. And the said lists shall be open to public inspection at all reasonable times of the day in the municipal office or at any other place specified in such notice.

Procedure in case of qualified person's name being omitted from list.

15 Any person duly qualified to be elected or to vote, whose name is omitted from the list of the division for which he is qualified to be elected or to vote, may, within seven days from the date of the publication of the notice as aforesaid, apply in writing to the chairman or the government agent, whoever shall have prepared the lists, to insert his name therein; and in the event of the chairman or government agent, as the case may be, refusing or omitting to do so within seven days from the receipt of such application, such person may apply to a magistrate for an order to have his name inserted in such lists, and thereupon the provisions of sections 17 and 18 shall apply.

Procedure to have an unqualified person's name erased from list.

16 Any person duly qualified to be elected or to vote, whose name shall appear in the list of any division, may within seven days from the date of the publication of the notice aforesaid apply in writing to the chairman or government agent, whoever shall have prepared the said list, to erase the name of any other person therein appearing, on the ground that such other person is not qualified to be elected or to vote; and in the event of the chairman or

government agent, as the case may be, refusing or omitting to do so within seven days from the receipt of such application, such person may apply to a magistrate for an order to have the name of such other person erased from the said list, and thereupon the provisions of sections 17 and 18 shall apply.

Chairman or government agent to comply with order of magistrate to insert or erase names.

17 Such magistrate shall after summary inquiry make such order as to the insertion or omission of the name of the applicant, or the erasure or continuance of the name of the other person stated to be disqualified, and as to the payment of the costs of the inquiry, as he thinks just; and such order, if it directs the insertion or erasure of any name in such list, shall be forthwith complied with by the chairman or government agent, as the case may be.

No appeal from order of magistrate.

18 No appeal shall lie from an order made by such magistrate under the last preceding section.

Revised lists to be certified under hand of chairman or government agent, and to be final and conclusive evidence of qualification until again revised or superseded.

19 At the expiration of four weeks from the time of the publication of the notice aforesaid the lists mentioned in section 13, subject to such insertions and erasures as shall have been made therein as hereinbefore provided, shall be certified under the hand of the chairman or the government agent, as the case may be, and thenceforth shall be final and conclusive evidence of the due qualification of the persons whose names appear in such lists to be elected or to vote, respectively, until such lists are revised or superseded by new lists as hereinafter provided.

An election to be held for each division of the municipality.

20 So soon as the lists mentioned in the last preceding section shall have been certified in manner aforesaid, the chairman or government agent, as the case may be, shall, after notice of not less than fourteen days, to be published in the *Government Gazette* and two or more of the local newspapers, hold an election for each division of the municipality at such times and places as shall be specified in such notice.

Procedure at such election

21 The chairman or government agent, or some one appointed in writing by such chairman or government agent, shall preside at every election, and shall determine the mode of voting. Every candidate for election shall be proposed at the said meeting by a person duly qualified to vote thereat, and shall be seconded by some other such qualified person. Every vote which at such election shall be given to any person who has not been so proposed and seconded shall not be taken into account, but shall be wholly void and ineffective. The candidate having the greatest number of votes shall be elected councillor, subject to the provisions of section 24.

President to decide questions as to identity or right of person to vote or to be elected.

22 If at any such election any question shall arise as to the identity or right of any person claiming to be qualified to be elected or to vote, the president shall have power to inquire into the same and, if it appears expedient to him, to administer an oath or affirmation to any person present at such meeting whom he shall think fit to examine with reference to such claim. Any person giving false evidence

on oath or affirmation at such inquiry, shall be liable to be prosecuted under the provisions of the Ceylon Penal Code. The decision of the president on any such claim shall, for the purpose of the said meeting and no further, be final.

President to have a casting vote.

23 Where an equality of votes is found to exist between any two or more candidates at any election under this Ordinance, and the addition of a vote would entitle one of such candidates to be elected a councillor, the president may give such additional vote, and the candidate to whom such additional vote has been given shall thereupon be held to be elected a councillor.

Twenty votes at least necessary to elect a councillor.

24 No councillor shall be elected unless at least twenty duly qualified persons have voted in his favour; and if no councillor for a division is elected by reason of the said number of persons not having voted, or if from any other cause there is no elected councillor for a division, the Governor may nominate a councillor for such division, and the councillor so nominated shall have all the same powers as if he had been elected, and shall hold office until another election has taken place.

One elected councillor for each division.

25 Subject to the provisions of section 24 there shall at all times be one elected councillor for each division.

Effect of adding one division to another.

New councillor to be elected for such enlarged division.

26 If the Governor in Executive Council shall at any time alter the number of divisions by adding one existing division to another existing division, the councillors of both such divisions shall thereupon vacate their office, and there shall be an election of a councillor for the new enlarged division.

Councillor elected for more divisions than one to choose a division for which he shall act.

In default, chairman to choose.

27 If any person is elected a councillor for more divisions than one, he shall within five days of the date of such election notify to the chairman or the government agent, as the case may be, the division for which he chooses to serve, and in default of such notice the chairman or the government agent shall forthwith declare the division for which such person shall serve.

Councillor to be held elected for division so chosen.

28 Such person shall thereupon be held to be elected for the division which he so chooses, or for the division which the chairman or the government agent so declares, and thereupon the voters of the other division or divisions in which the said person has been elected a councillor shall forthwith proceed to elect another councillor in the manner provided by this Ordinance.

Penalty for accepting or obtaining a reward for voting, or forbearing to vote.

29 Whoever being qualified to vote, or claiming to be qualified to vote, in any election under this Ordinance, accepts or obtains, or agrees to accept, or attempts to obtain for himself or for any other person, any gratification whatever as a motive or reward for giving or forbearing to give his vote in any such election, shall be liable to a fine not exceeding one hundred rupees for every such offence, and shall for ever be disqualified from voting at any such election, and from being elected a councillor.

30 Any person who shall knowingly vote at any election without possessing the necessary qualifications, or being disqualified as provided in this Ordinance, shall be liable, notwithstanding that his name appears in the list of persons entitled to vote, to a penalty not exceeding one hundred rupees.

Penalty for knowingly voting without the necessary qualifications.

31 No person shall be qualified to be or continue to be a councillor who has been sentenced to imprisonment for any infamous crime, or is or becomes bankrupt or insolvent, or who without the permission in writing of the standing committee is interested, otherwise than as a shareholder in a joint stock company, in any contract or work made with or done for the municipal council, nor, unless the council otherwise decide, shall any person continue to be a councillor who fails to attend three consecutive general meetings.

Disqualifications of councillors.

32 Any councillor so sentenced, or being or becoming bankrupt or insolvent, or interested, or failing to attend, shall *ipso facto* cease to be a councillor ; but in the last case the municipal council may in their discretion restore him to his office at the next general meeting after the failure to attend.

Disqualified councillor shall vacate office.

33 If at any time it shall be proved to the satisfaction of the chairman that any person then holding the office of councillor was elected without being duly qualified or while disqualified as in this Ordinance provided, or has, since his election, ceased to possess the qualifications specified in section 9, the chairman shall and he is hereby required forthwith to order the erasure of the name of such person from the lists of persons entitled to be elected, and the councillor whose name is so erased shall thereupon cease to be a councillor.

Councillors elected without, or since election ceasing to possess, the necessary qualifications shall have their names erased from the lists, and shall vacate their office.

Provided, however, that every order of erasure so made by the chairman shall be subject to an appeal to the Supreme Court. Every such appeal, free from all stamp duty, shall be preferred by such councillor within five days of such order being notified in writing to him, and shall be heard and determined by the said court in the same manner as though it were an appeal from an interlocutory order of a district court. The Supreme Court shall also make such order as to costs as it shall deem just.

Appeal to the Supreme Court against order of erasure of names.

34 Any person who shall knowingly accept, and shall enter upon, and act in, the office of councillor without possessing the necessary qualifications, or being disqualified as provided in this Ordinance, and any councillor who shall knowingly continue to act as such after he shall have ceased to possess the necessary qualifications, shall, notwithstanding that their names appear in the lists of persons entitled to be elected, be liable to a penalty not exceeding one thousand rupees, and shall for ever be disqualified from being elected a councillor or from voting at any election.

Penalty for acting as councillor without being qualified or while disqualified.

35 Any councillor who, without the permission in writing of the standing committee, is concerned or interested, otherwise than as a shareholder in a joint stock company, in any

Penalty for a councillor being concerned or interested in

contracts with municipal council.

contract or work made with or done for the municipal council, shall be liable to a fine not exceeding five hundred rupees.

Councillor may resign. [§ 3, 26 of 1890]

36 An elected *or a nominated* councillor may at any time resign office by a written notice to the chairman.

Election of councillor in place of one dying, being disqualified, resigning, or ceasing to hold office.

37 In case of the death, disqualification, or resignation of a councillor, or in case of a councillor ceasing to hold office as hereinbefore provided, a substitute shall be forthwith elected or nominated in the place of the councillor so dying, becoming disqualified, resigning, or ceasing to hold office, in manner provided in this Ordinance.

Vacancy to be notified to Governor.

38 The chairman shall immediately notify the fact of a vacancy to the Governor, and if the vacancy be of an elected councillor shall take the necessary steps for holding an election.

Elected councillors to hold office for three years.

Outgoing councillor may be re-elected.

39 The first councillors elected under this Ordinance shall go out of office on the last day of December of the third year from their election, and shall be succeeded by other councillors who shall be elected once in every three years during the continuance of this Ordinance. Provided that any such outgoing councillor may be re-elected if he continues to be duly qualified.

Successive elections to be held once in three years, in the month of December.

40 On any day to be appointed by the chairman during the first week in December preceding the day on which any such term of three years shall expire, there shall be held an election of councillors for the three years next succeeding, reckoned from the first day of January next following the day of such election. And such elections shall proceed in the same manner and subject to the same provisions as the election of the first councillors under this Ordinance.

Period of office of nominated councillors. [§ 4, 26 of 1890]

40 (*a*) The councillors nominated by the Governor under section 10 or section 24 shall cease to hold office on the thirty-first day of December of the year in which a general election of councillors is held as provided in sections 39 and 40, provided that they or any of them may be re-nominated by the Governor.

Revision of lists in the first quarter of every year.
New lists to be prepared in September every third year.

41 The chairman shall in the first quarter of every year revise the said lists for the purpose of removing therefrom the name of any person not entitled to be entered therein, and adding the name of any qualified person; and he shall every third year in the month of September prepare new lists of persons duly qualified to be elected and to vote within each division of the municipality. The lists when prepared shall be published and open to inspection, and notice thereof shall be given in the same manner as is provided in the case of the lists mentioned in section 14.

Procedure to have names inserted or erased.

42 Any person claiming to be qualified to be elected or to vote, whose name is omitted from the new lists, and any person whose name appears in such lists who claims to have the name of another erased therefrom as disqualified to be elected or to vote, may in accordance with the provisions contained in sections 15 and 16 apply to the chairman to

insert or to erase any such name, and, if need be, to a magistrate for an order of insertion or erasure, and every order made by such magistrate on any such application directing the insertion or erasure of any name in or from the said lists shall be forthwith complied with by the chairman.

43 The new lists so prepared as aforesaid, subject to such insertions and erasures as shall have been ordered and made therein as aforesaid, shall be certified under the hand of the chairman during the last week of October following, and when so certified shall be final and conclusive evidence of the qualification of the persons named therein to be elected or to vote, respectively. And such new lists, until the same are in turn superseded, shall supersede and take the place of the lists previously in force.

New lists subject to insertions and erasures to be certified by chairman, and to be final and conclusive evidence of qualification until superseded by fresh lists.

44 Every suit, prosecution, appeal, or other proceeding commenced or carried on either by or against the late municipal councils of Colombo, Kandy, and Galle, respectively, prior to the coming into operation of this Ordinance, shall continue and take effect in the same manner in all respects as it would have continued and taken effect in relation to the said late municipal councils, or any of them, if this Ordinance had not been passed.

Actions. &c., by or against municipal councils not to abate.

45 All decrees and orders made, all rates, taxes, rents, tolls, or other payments due, and all fines and penalties incurred previously to the coming into operation of this Ordinance, shall be enforced, levied, recovered, and proceeded for, and all executive proceedings commenced previously to the coming into operation of this Ordinance shall be continued, proceeded with, and completed in like manner as if this Ordinance had not been passed, the municipal councils of Colombo, Kandy, and Galle, respectively, under this Ordinance, being in reference to the matters aforesaid in all respects substituted for the late and all former municipal councils of the said respective towns of Colombo, Kandy, and Galle.

Decrees, orders, &c., made before coming into operation of this Ordinance, to be enforced.

Municipal Purposes.

46 The purposes for which municipal councils are authorized to expend funds are the following, viz.:

Purposes for which municipal funds may be expended.

(*a*) Lighting public streets, places, and buildings; control, supervision, and removal of dangerous places, buildings, trades, and practices; regulation of traffic; and prevention and removal of obstructions in public streets or places.

Public safety, lighting, regulation of traffic, &c.

(*b*) Construction, maintenance, supervision, and control of public markets and slaughter-houses; latrines, privies, urinals; drains, sewers, drainage works, tramways, and other works for the removal of sewage; waterworks, drinking fountains, tanks, and wells; parks and gardens; acquisition of land necessary for any of these purposes; reclamation of unhealthy localities; and other sanitary measures of a like nature.

Public health, markets, drainage works, &c.

Cleaning streets, &c

Cleansing and watering of streets and sewers; scavenging; removal of excessive or noxious vegetation; and, generally, the abatement of all nuisances.

Education, maintenance of English schools.

(*c*) Maintenance of schools in which the English language is taught, in accordance with the provisions of Ordinance No. 33 of 1884.

Public convenience, streets, &c.

(*d*) Construction, maintenance, and alteration of streets, bridges, causeways, culverts, and the like, and acquisition of land necessary for any of these purposes; regulation of buildings; removal of undue projections; naming streets and numbering houses; and planting trees in public streets and places.

Buildings

Construction, purchase, and maintenance of all buildings required in order to give effect to the purposes of this Ordinance.

Surveys.

Survey of houses and lands.

General.

(*e*) All matters necessary for, or conducive to, public safety, health, or convenience.

Contributing towards public ceremonies.
[§ 5, 26 of 1890]

(*f*) Contributing, with the previous sanction in writing of the Governor in Executive Council, towards the cost incurred on the occasion of any public ceremony or for purposes of public recreation or entertainment in the municipality.

Municipal Executive Officers.

Governor shall appoint a chairman.

Entire executive power and responsibility to be vested in chairman, assisted by an assistant chairman, if one is appointed. All executive acts to be done by chairman or assistant chairman, if any.

47 The Governor shall from time to time appoint a proper person to be the chairman of the municipal council, and may from time to time remove such person from office, and appoint another in his stead. The entire executive power and responsibility for the purposes of this Ordinance shall be vested in such chairman, assisted, if the Governor shall think fit, by an officer who shall be styled assistant chairman. All executive acts which are hereinafter directed to be done by the municipal council shall, unless the contrary intention appears from the context, be done by the chairman, or the assistant chairman if specially authorized thereto by the chairman.

Proviso as to Colombo Municipality.

Provided always that in the case of the Colombo Municipality, such chairman shall be an officer in the Civil Service of the Ceylon Government, who shall devote the whole of his time and attention to the duties of his office, and shall not hold any other appointment, temporary or permanent, save that of a municipal magistrate, nor follow any other occupation, nor be a director of any company.

Chairman to receive salary not exceeding fifteen thousand rupees per annum.

48 The chairman, if he holds no other appointment under the Ceylon Government, shall receive out of the municipal fund such salary, not exceeding fifteen thousand rupees per annum, as may from time to time be fixed by the Governor in Executive Council.

Proviso.

Provided always that such salary in the case of the chairman of the Colombo Municipal Council shall be paid out of the said fund into the Colonial Treasury in such instalments and at such times as the Governor shall direct.

Municipal Councils.

49 The Governor may from time to time, if he shall think fit, appoint an officer of the municipality to be assistant chairman of the municipal council, and may from time to time at his discretion cancel such appointment. The assistant chairman shall assist the chairman in his office, and shall perform the duties which shall be assigned to him by the chairman.

Governor may, if he shall think fit appoint an assistant chairman.

50 In the event of any epidemic or any unusual mortality prevailing within the municipality, it shall be competent to the Governor to appoint a special sanitary officer for the purpose of investigating the causes of such epidemic or mortality, and of advising the municipal council and the Governor as to the measures to be taken for the removal or abatement of such epidemic or mortality.

When special sanitary officer may be appointed by the Governor.

51 The appointment of a special sanitary officer may be made from time to time for such period not exceeding twelve months as the Governor in Executive Council may deem necessary. Such officer shall receive a salary not exceeding three hundred rupees per mensem out of the municipal fund.

For what period

Salary. Municipal contribution towards salary

52 Such officer, or any health officer of the municipality, shall during his employment have all the powers of entry and inspection given to the chairman or other officer of the municipality by this Ordinance.

Powers of special sanitary officer.

Municipal Magistrate.

53 Upon the coming into operation of this Ordinance the power vested in the late municipal councils of Colombo, Kandy, and Galle, respectively, to form a bench of magistrates, shall cease and determine. Provided, nevertheless, that nothing in this Ordinance contained shall affect any proceeding already had, or any order made or sentence passed by any bench of magistrates, or any appeal or right of appeal therefrom, which said proceeding, order, sentence, appeal, or right of appeal, shall remain valid and effectual, and shall be carried out and prosecuted as if this Ordinance had not been passed.

Municipal councillors shall cease to have power to form bench of magistrates.

Proviso.

54 Every complaint, matter, or thing which shall then be pending before any bench of magistrates shall or may be proceeded upon in the police court having jurisdiction within the limits of the municipality, or in the court of the municipal magistrate specified in section 55: and all proceedings which shall thereafter be had on such complaint, matter, or thing, respectively, shall be conducted in like manner as if such complaint, matter, or thing had been instituted in such police court or in the court of the municipal magistrate; and all the records and proceedings belonging and appertaining to any such complaint, matter, or thing shall be delivered to such police court or to the court of the municipal magistrate by such bench of magistrates.

Past proceedings to be continued in police court or court of municipal magistrate.

55 In any municipal town wherein the chairman receives a salary out of the municipal fund under section 48, such chairman shall be *ex-officio* the municipal magistrate. In every other municipal town the police magistrate

Municipal magistrate

Powers and jurisdiction of such magistrate.

having jurisdiction within such town shall be the municipal magistrate. The municipal magistrate shall hear, try, and determine any offence committed within the municipality in breach of any municipal by-laws lawfully enacted, or under this Ordinance, or any of the following Ordinances: Nos. 4 of 1841; 10 of 1854; 14 of 1859; 10 of 1861; 7 of 1862; 12 of 1862; 15 of 1862; 9 of 1863; 13 of 1864; 14 of 1865; 16 of 1865; 17 of 1865; 20 of 1865; 8 of 1866; 14 of 1867; 5 of 1868; 3 of 1871; 7 of 1873; 17 of 1873; 8 of 1876; 4 of 1878; and 14 of 1878; and shall have jurisdiction to award such punishment to the offenders as is authorized by law.

Governor may appoint additional municipal magistrate.
[§ 6, 26 of 1890]

55 (*a*) It shall be lawful for the Governor, as occasion may require, to appoint the police magistrate or any additional police magistrate having jurisdiction in any municipal town, wherein the chairman receives a salary out of the municipal fund under section 48, to be an additional municipal magistrate for such town, and all and every the powers and jurisdiction vested in a municipal magistrate under section 55 shall be exercised by the additional municipal magistrate so appointed as aforesaid.

Term "municipal magistrate" to include additional municipal magistrate
[§ 7, 26 of 1890]

(*b*) Wherever the term "municipal magistrate" is used, it shall be taken to include the additional municipal magistrate appointed by the Governor.

Oaths of office and allegiance.

56 Every municipal magistrate who is not the chairman shall receive such allowance not exceeding one thousand rupees per annum out of the municipal fund as is from time to time fixed by the Governor in Executive Council, and every municipal magistrate shall, before he begins to exercise the functions of his office, take and subscribe the oaths in the form set forth in the schedule B to this Ordinance, and such oaths shall be enrolled in the court of such municipal magistrate, and a copy of such enrolment shall be forthwith transmitted to the Registrar of the Supreme Court to be filed of record in that court.

Rules and forms of procedure in police courts to be observed in court of municipal magistrate.

Appeals.

57 All proceedings before the said municipal magistrate shall be conducted and governed by the rules, forms, and procedure prescribed for and observed by police courts, and no appeal shall lie from any judgment or order of a municipal magistrate except as provided for by "The Criminal Procedure Code, 1883," or by any other law for the time being in force, in respect of appeals from any judgment or order of a police court.

Stamp duties.

58 The provisions of "The Stamp Duties Ordinance, 1884," in respect of police courts, shall equally apply to the court of the municipal magistrate.

Subordinate Officers and Servants.

Chairman to appoint and to remove subordinate officers.

59 For the purpose of carrying out the provisions of this Ordinance, the municipal council may create, as provided in section 122, such offices other than those mentioned in sections 49 and 50 as they may think necessary. The chairman shall from time to time appoint all such officers whose salary shall not exceed two hundred rupees per mensem, and may from time to time remove any such officer with the consent of the standing committee, and appoint

another in his place. And all officers whose salary exceeds two hundred rupees per mensem shall be appointed by the municipal council, who may from time to time remove any such officer and appoint another in his place.

Provided that the Governor in Executive Council from time to time may require the appointment of a health officer under this section. Proviso.

Leave of Absence.

60 The Governor in Executive Council may, upon the recommendation of the municipal council, grant such leave of absence to the chairman, assistant chairman, or municipal magistrate as he thinks fit, upon the same terms and conditions as leave of absence is granted to the members of the Civil Service of this colony. Grant of leave of absence to chairman, assistant chairman, and municipal magistrate.

61 The chairman may grant such leave of absence not exceeding thirty days in the aggregate for any one year to subordinate officers and servants of the municipality as he thinks fit. He shall in such case make due provision for the performance of the duties of the officer or servant so absent, and he shall direct the payment of such salary to such officer or servant on leave and to the person appointed to perform his duties, as in the like case is paid to a subordinate officer or servant in the Public Service of the colony, and to the person who may be appointed to act for him. Chairman to grant leave to, and make arrangements for, absent officers and servants.

Pensions.

62 The Governor in Executive Council may, if it shall appear expedient to him, from time to time prescribe rules for the grant of retiring pensions or gratuities to officers and servants appointed under this Ordinance, and to any officer or servant of any late municipal council whose office may be hereafter abolished, and who may not be appointed to any office under this Ordinance, or to any office under the Government, the salary of which is not less than that of the office so abolished. The municipal council shall, subject to such rules, pay such pensions and gratuities out of the municipal fund. Pensions and gratuities to municipal officers and servants.

Contracts.

63 The chairman may, on behalf of the municipal council, make such contracts as are necessary for carrying into execution any work or duty authorized in a budget previously sanctioned, to the extent of the sum provided for the said work or duty in such budget. Chairman may make contracts for works provided for in the budget.

64 Every such contract shall be reduced to writing and signed by the chairman, and shall specify— Mode of executing contracts.

(*a*) The work or duty to be done;

(*b*) The materials to be used;

(*c*) The price to be paid for such work, duty, or materials;

(*d*) The time or times within which the work or duty is to be done or the materials are to be furnished; and

(*e*) The penalty imposed in case of the breach of the contract.

Contracts exceeding one thousand rupees to be sealed

If the amount of any such contract exceeds one thousand rupees, it shall be sealed with the common seal of the municipal council.

When consent of standing committee necessary

65 The chairman shall not make on behalf of the municipal council any contract for a work, service, or duty, or portion of a work, service, or duty, the cost of which exceeds one thousand rupees, or any contract enduring for a longer period than the time elapsing between the making of such contract and the end of the budget year, without the previous consent of the standing committee.

Common seal, where to be kept and how affixed to instruments

66 The common seal of the municipal council shall be in the custody of the chairman, and shall not be affixed to any instrument on behalf of the municipal council except in the presence of the chairman, or, in his absence, of the assistant chairman authorized by him in that behalf, and one member of the standing committee, who shall sign their names to such instrument in token of their presence.

Contracts to be reported to standing committee

67 Every contract the amount of which exceeds five hundred rupees made by the chairman on behalf of the municipal council shall be reported to the standing committee within fifteen days after it is made.

When tenders to be called for

68 Before entering into any contract which involves an expenditure of one thousand rupees or upwards for the execution of any work or duty, or for the supply of materials, or for any other thing necessary for the purposes of this Ordinance, the chairman shall call for tenders by advertisement.

General.

Officers and servants not to be interested in contracts

Penalty.

Exception

69 No chairman, assistant chairman, municipal magistrate, or other officer or servant appointed under this Ordinance shall be in any wise concerned or interested in any contract or work made with or executed for the municipal council. If any chairman, assistant chairman, municipal magistrate, officer, or servant be so concerned, he shall be incapable of holding any office or employment under this Ordinance, and shall be liable to a fine not exceeding five hundred rupees. But no person, being a shareholder of any joint stock company, shall be liable to such fine merely by reason of any contract between such company and the municipal council, or of any work executed by such company for the municipal council.

Municipal officers and servants to be "public servants" within the meaning of "The Ceylon Penal Code."

70 Every municipal officer and servant of every description paid out of the municipal fund, every contractor or agent to whom the collection of any tax, or toll, or payment on account of municipal lands is entrusted by or on behalf of the municipal council, and every servant or other person employed by such contractor or agent for the collection of such tax, toll, or payment, shall be held to be a public servant within the meaning of that term as used in "The Ceylon Penal Code."

Municipal Councils.

71 All offices of the late municipal councils of Colombo, Kandy, and Galle, respectively, created under the provisions of Ordinance No. 17 of 1865, shall continue as though they had been created under this Ordinance, and all persons holding any such offices shall continue to hold such offices as though they had been made under this Ordinance.

Offices created under Ordinance No. 17 of 1865 shall continue.

Municipal Property and Fund.

72 All waste land, and all stone, cabook, or gravel quarries, and all lakes, ponds, tanks, reservoirs, aqueducts, and other waterworks situate within the municipality, not being private property, which may be made over to the municipal council with the sanction of the Governor (and of which making over a record in writing shall be kept signed by the persons authorized to make the same over, and the officer of the municipal council authorized to receive the same), shall be vested in the said council, to be administered, and the revenue thereof employed and made use of, for the benefit of the municipality and for the purposes of this Ordinance.

Waste land and quarries, &c., formally transferred by Government, shall vest in municipal council.

Provided that the said council shall not be authorized or permitted to sell or otherwise alienate any property hereinbefore mentioned without having previously obtained the consent in writing of the Governor to such sale or alienation, and without having, after obtaining such consent, given notice of their intention to sell during three successive weeks in the *Government Gazette*. And provided that nothing in this section contained shall be deemed to affect or prejudice any right or title of the Crown to any such property which Her Majesty may at any time resume or dispose of for public purposes.

Proviso.

Sale or alienation forbidden except under certain conditions.

Crown's rights reserved.

Provided also, that nothing herein contained shall affect or be construed to affect any right or title which Her Majesty's Board of Ordnance has, or may have, in such property or in any part thereof.

Also rights of Board of Ordnance.

73 All public streets and bridges within the municipality (excepting such as shall be specially exempted by the Governor in Executive Council, by Proclamation to be for that purpose from time to time issued), and the pavements, stones, and other materials thereof, and also all erections, materials, implements, and other things provided for such streets, shall be vested in the municipal council for the purposes of this Ordinance.

Public streets and bridges vested in council.

74 The property of and in all the lamps, lamp-irons, lamp-posts, posts, chains, pales, and rails in, about, or belonging to the said streets and bridges within the limits of the said municipality, and of and in all iron, timber, stone, bricks, and other materials and furniture and things belonging thereto (except when the same shall be otherwise regulated by contract with the said municipal council), shall be and the same is hereby vested in the said council, and may be used, sold, and disposed of by them from time to time as they shall deem necessary; and the money arising from such sale shall be applied towards the purposes of this Ordinance.

Other property vested in municipal council.

Property and rights of late municipal councils vested in present councils.

75 All property, movable or immovable, and all interest therein, whether vested, contingent, or in remainder, which is at the date of the coming into operation of this Ordinance vested in or held in trust for the late municipal councils of Colombo, Kandy, and Galle, respectively, with all rights which are at such date enjoyed by such late municipal councils, shall at the coming into operation of this Ordinance be vested in the municipal councils of Colombo, Kandy, and Galle, respectively, and their successors.

Moneys owing to and due by late councils to be paid to and recoverable from present councils.

76 All persons who at the said date owe any money to the late municipal councils of Colombo, Kandy, and Galle, respectively, or to any person on their behalf, shall pay the same to the municipal councils of Colombo, Kandy, and Galle, respectively, and all moneys which at such date are due and owing by or recoverable from the late municipal councils of Colombo, Kandy, and Galle, respectively, shall be recoverable from the municipal councils of Colombo, Kandy, and Galle, respectively.

Contracts entered into with or by late councils to be enforced by or against present councils.

77 All contracts and securities made before the coming into operation of this Ordinance with or in favour of or by or for the late municipal councils or any previous municipal councils of Colombo, Kandy, and Galle, respectively, and all rights of action arising out of contract or otherwise, shall take effect and may be proceeded on and enforced, as far as circumstances will admit, in favour of, by, against, or with reference to the municipal councils of Colombo, Kandy, and Galle, respectively, in such manner as the same would have taken effect and might have been proceeded on and enforced in favour of, by, against, or with reference to the late municipal councils of Colombo, Kandy, and Galle, respectively, if this Ordinance had not been passed.

The municipal fund.

78 All moneys received by the municipal council by virtue of this or any other Ordinance, or which may be made over by the Ceylon Government at any time from the general revenue to the municipal council for the purposes of this Ordinance, and all fines levied and penalties recovered under the authority of this Ordinance, or under any of the Ordinances specified in section 55 within the municipality, shall constitute a fund which shall be called "the municipal fund," and shall, together with all property which becomes vested in them, be under the direction and control of the municipal council.

Where the fund shall be lodged.

79 All moneys received by the municipal council in respect of the municipal fund, and all penalties levied by them, shall be lodged with such bank as shall be selected by the municipal council with the sanction of the Governor in Executive Council, and shall be credited to an account entitled "The Municipal Fund." All expenses to be paid by the chairman on behalf of the municipal council under this Ordinance shall be discharged out of the municipal fund.

Expenses under this Ordinance to be paid out of the fund.

How the fund shall be drawn against.

All orders or cheques against the said fund shall be signed by the chairman, or, in the absence of the chairman, by any councillor nominated by him, and the said bank may pay all orders or cheques against the said fund which are so signed,

Powers and Duties of the Municipal Council.

80 The following are among the powers and duties of the municipal council: — Powers and duties of municipal council

(*a*) To deal with the budget or supplemental budgets in the manner specified in sections 112 and 113. — Passing of budgets;

(*b*) To consider recommendations from the standing committee, to reduce or increase the amount of expenditure, or to transfer the moneys assigned under one head of expenditure in the estimate to another head in the manner provided in section 114. — Consideration of standing committee's recommendations;

(*c*) To consider, approve, or disapprove the annual administration report specified in section 115, and append such observations thereto as they think fit, prior to its submission to the Governor in Executive Council. — Adoption of annual report,

(*d*) To adopt, modify, or reject proposals for creating any new municipal office. — Creation of new offices;

(*e*) To sanction the raising of loans for works required for the purposes of this Ordinance. — Raising of loans;

(*f*) To consider the periodical statements of receipts and disbursements specified in section 90, and progress reports of work done, and pass such resolutions thereon as they think fit. — Passing of periodical statements;

(*g*) To call the attention of the chairman to any neglect in the execution of municipal work, to any waste of municipal property, to the wants of any locality as noticed personally by any councillor or made known to him by the inhabitants, and to suggest any improvements which appear desirable. — Calling attention to neglect, waste, wants, &c.;

(*h*) To bring forward general questions connected with the municipal fund, or any new measures relating to purposes authorized by this Ordinance. — General questions;

(*i*) To sanction the appropriation of municipal land, or the acquisition of land for any purpose not inconsistent with the provisions of this Ordinance. — Appropriation or acquisition of land;

(*j*) To purchase any land or other immovable property which may be sold in execution of any judicial decree or order obtained by them against any person whomsoever, and to re-sell the same. — Purchase of property sold in execution,

(*k*) To make, repeal, alter, or amend by-laws for the purposes of this Ordinance. — By-laws.

81 The municipal council shall provide an office within the municipality for the transaction of business. Such office shall be styled "the municipal office." — To provide municipal office.

There shall be kept there during all hours of business a box for the reception of complaint-petitions, and a book for the registry of such petitions, and of the orders passed thereon after inquiry and report by the proper officer. — Box for petitions.

To provide places for carts, &c.

82 The municipal council shall provide proper places for keeping carts, bullocks, implements, materials, and all other things incidental to the purposes of this Ordinance.

If council fail to carry out any necessary work, &c., Governor shall give notice of intention to appoint special officer to inquire and report.

Inquiry to be public.

83 If at any time it appears to the Governor in Executive Council that the municipal council are omitting to fulfil any duty or carry out any work imposed upon them by this Ordinance, he shall give notice to the municipal council that, unless they do, within fifteen days, show cause to his satisfaction against such appointment, he will appoint a special officer to inquire and report to him the facts of the case, and to recommend what steps such officer thinks necessary for the purpose of fulfilling such duty or carrying out such work. Such inquiry shall be conducted, as far as may be practicable, in an open manner.

Power of Governor to make order requiring council to do the necessary work.

84 On the receipt of the report of the officer appointed under section 50 or section 83, the Governor in Executive Council shall determine what duty or work shall be done or executed, and make an order requiring the municipal council within a time to be specified in such order to fulfil such duty or carry out such work, and to raise the funds necessary for such duty or work from some one or more of the taxes provided by this Ordinance or by means of a loan.

If council fail to comply with order, Governor may direct chairman or appoint another person to carry out the work, and may direct one or more of the prescribed taxes to be levied or increased.

85 If the municipal council fail within such time to comply with such order, the Governor in Executive Council may direct the chairman or appoint any other person to fulfil such duty or carry out such work, and may fix the remuneration to be paid to such person, and may direct that such remuneration and the cost of such work shall be defrayed out of the municipal fund, and that, if necessary, any one or more of the taxes provided by this Ordinance shall be levied or increased so as not to exceed the maximum provided by this Ordinance for such tax or taxes.

Governor may raise a loan in addition.

Amount and terms of loan to be notified.

86 The Governor in Executive Council may, in addition to such levying or increasing of taxes or in lieu thereof, direct a loan to be raised on the security of the municipal fund for the purpose of fulfilling such duty or carrying out such work. In such case the Governor in Executive Council shall notify by publication in the *Government Gazette* the amount and the terms of the loan.

Loan to be a charge on municipal fund.

87 Any loan raised in pursuance of such notification shall be a charge upon the municipal fund and property, in like manner as if it had been duly contracted by the municipal council.

Standing Committee.

Standing committee.

88 The municipal council shall at their first general meeting in each year elect by ballot not less than three and not more than five of their number, who, with the chairman, shall form a standing committee, and shall at a general or special meeting in like manner fill up all vacancies occurring during the year.

MEETINGS OF THE MUNICIPAL COUNCIL.

General Meetings.

General meetings.

89 There shall be twelve general meetings of the municipal council in every year for the transaction of business. The general meetings shall be held at the municipal office during the first week of every month, or as soon after as seems expedient to the chairman. The chairman shall cause a printed or written notice of every such meeting and of the business to be transacted at it, to be served on each councillor at least four days before the meeting.

Notice of meetings and business.

Chairman to submit statement of receipts and disbursements and progress report.

90 At each of such meetings the chairman shall submit to the municipal council a statement of receipts and disbursements on account of the municipal fund from the close of the previous year up to the close of the month preceding that in which the meeting takes place, and also a progress report of work done brought up to the same date. Such statement and progress report, together with the minutes of the proceedings of the meeting, shall be forwarded forthwith to the Governor in Executive Council, and shall be published in the *Government Gazette.*

Such statement, report, &c., to be sent to Government and published in the *Gazette*

Special Meetings.

Special meetings.

91 The chairman may whenever he thinks fit, and shall upon a written requisition signed by any three councillors, call a special meeting of the municipal council to be held at the municipal office. No such meeting shall be held unless at least four days' notice, specifying the time of such meeting and the purpose for which it is to be held, has been given by written or printed notice to each of the councillors.

Notice to be given separately.

Conduct of Business.

Business to be transacted at meetings.

Notice of other business.

Service and publication of such notice.

92 No business shall be brought before or transacted at any meeting, general or special, other than the business specified in the notices given under sections 89 and 91, unless notice has been given by the councillor who intends to bring any other business forward. Such notice shall be in writing, it shall specify the resolution which such councillor intends to move, and it shall be left at the municipal office three clear days before such meeting.

Questions to be decided by a majority of votes.

93 All acts authorized to be done by the municipal council, and all questions authorized to be decided by them, shall, save as provided in section 47, be done and decided by a majority of the councillors present and voting at a general or special meeting.

Who shall preside and have a casting vote.

94 The chairman shall preside at every meeting, general or special, of the municipal council, and shall have a second, that is, a casting, vote in all cases of equality of votes. In the absence of the chairman, the councillors present at a meeting shall choose some one of their number to preside, who shall for that meeting have all the powers of the chairman, and shall have a second, that is, a casting, vote in all cases of equality of votes.

Quorum

95 No business shall be transacted at any meeting or adjourned meeting unless a quorum of the municipal council be present; that is to say, unless at least five councillors be present.

If no quorum, meeting to be adjourned.

Business to be disposed of at adjourned meeting

96 If at any meeting there is not a sufficient number of councillors present to form a quorum, the chairman shall adjourn the meeting to such date, not more than fifteen days after the date of the meeting so adjourned, as he thinks fit; and the business which would have been brought before the meeting so adjourned, if there had been a quorum present, shall be brought before and disposed of at such adjourned meeting.

Adjournment of meetings and disposal of adjourned business.

97 The chairman of a meeting, general or special, at which a quorum of the municipal council are present, may, with the consent of the meeting, adjourn the meeting from time to time; but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which such adjournment took place.

Minutes of proceedings open to inspection

98 Minutes of the proceedings of all meetings of the municipal council shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the chairman after each meeting, and shall at all reasonable times be open at the municipal office to the inspection, without charge, of any councillor, and to the inspection of any other person on payment of a fee of twenty-five cents.

Notices may be served by post

99 All notices required to be given under sections 89 and 91 may be forwarded by post addressed to the usual or last known place of abode of the councillor to be served; and when a notice is served by post it shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post.

Special Committees.

Special committees.

Proceedings to be written and submitted to council.

100 The municipal council may from time to time appoint from among their own number such special committees, consisting of such number of councillors as they think fit, for the purpose of inquiring into and reporting upon any matter connected with the purposes of this Ordinance. The proceedings of every such committee shall be recorded in writing, and be submitted to the municipal council.

Proviso.

Provided, however, that no special committee shall take any proceedings after the close of the year during which it shall have been so appointed as aforesaid.

Powers and Duties of Standing Committee.

May inspect accounts and call for explanation

101 The standing committee shall have access to all the accounts of the municipality, and the chairman shall furnish forthwith any explanation which is called for by the standing committee as to the receipts and disbursements of the municipal fund.

102 The standing committee shall have power to conduct a monthly audit of the municipal receipts and disbursements, and to check the monthly abstract of such receipts and disbursements for the preceding month as furnished by the chairman.

May conduct monthly audit of receipts and disbursements.

103 The standing committee shall see to the due appropriation of the budget grants with reference to the progress report of work done; shall inquire into complaints against assessment; shall dispose of all applications for pensions and gratuities; shall consider contracts as provided in sections 65 and 67; shall assist the chairman in acquiring and disposing of lands and buildings; and shall attend to such other duties as are in accordance with the provisions of this Ordinance.

Shall see to due appropriation of budget grants.

Shall deal with applications for pensions, &c., and consider contracts.

104 The standing committee may make rules for the regulation of their proceedings. Such rules shall be of no validity until they have been approved by the municipal council at a general meeting and have received the sanction of the Governor in Executive Council.

May make rules to regulate proceedings.

Meetings of Standing Committee.

105 The standing committee shall meet for the despatch of business once at least in every month, at the municipal office, and at such time as is appointed by the chairman.

Shall meet at least once a month.

106 The chairman shall preside over all meetings at which he is present, and all questions which come before any meeting for decision shall be decided by a majority of the members present and voting at such meeting, and in all cases of equality of votes the chairman shall have a second, that is, a casting, vote. In case of the absence of the chairman at a meeting, the members present shall choose one of themselves to preside, who shall for that meeting have all the powers of the chairman.

Who shall preside.

107 No business shall be transacted at any meeting of the standing committee unless there are at least three members present.

Quorum.

108 The chairman may, whenever he thinks fit, and shall upon receiving a requisition signed by any three members of the standing committee, call a special meeting of the standing committee to be held within three days from the time of his receiving such requisition. Every such requisition shall state the purpose for which such meeting is required, and the chairman, in calling such meeting, shall specify the purpose for which it is called.

Special meetings may be called.

109 At a meeting of the standing committee to be held not later than in the month of October in every year, the chairman shall lay before the standing committee an estimate of probable receipts and the proposed expenditure of the municipality for the year commencing on the first day of January then next succeeding, in such detail and form as the standing committee may from time to time direct.

Estimate of receipts and expenditure to be submitted by chairman in October every year.

Estimate to be considered by standing committee.

The standing committee shall proceed to consider such estimate, and may approve, reject, or alter all or any of the items entered therein, or add any item thereto; provided that no rejection, alteration, or addition be inconsistent with the provisions of this Ordinance.

Municipal Budget.

Budget of income and expenditure and of taxes to be prepared;

110 The standing committee shall on or before the month of November of every year prepare a budget containing—

(*a*) An estimate of the available municipal income;

(*b*) An estimate of expenditure as approved by them; and

(*c*) Proposals as to the amount of taxes necessary to be levied or loans to be raised for the purpose of meeting such expenditure in the next ensuing year of municipal taxation.

and to be published and circulated.

Such budget shall be printed and published in the *Government Gazette*, and circulated among the councillors on or before the twentieth day of November.

Budget to be laid before council.

111 The chairman shall lay such budget before the municipal council at a special meeting to be called in the month of December in every year.

Council may pass budget, or refer it back for consideration, or reject any items.

112 It shall be in the discretion of the municipal council to pass or to modify all or any of the items entered in such budget, or to refer it to the standing committee for further consideration, or to reject any item in the budget, or to add any item thereto: provided that no such modification, rejection, or addition be inconsistent with the provisions of this Ordinance.

Supplemental budget to be submitted by chairman whenever necessary; and to be published and circulated.

113 The chairman may at any time prepare a supplemental budget, and, after having obtained for it the approval of the standing committee, may lay it before the municipal council for sanction. Every supplemental budget shall be printed and published in the *Government Gazette* and circulated among the councillors at least seven days prior to the meeting of the municipal council before which it is laid.

Council may reduce or increase expenditure.

114 The municipal council may, on the recommendation of the standing committee, in case of necessity during the year, reduce or increase the expenditure under any head of the budget or supplemental budget, or, on and with such recommendation, may transfer the moneys assigned under one head of expenditure to another head.

Proviso.

Provided that no such reduction, increase, or transfer is inconsistent with the provisions of this Ordinance, and that the total amount of expenditure sanctioned by the estimate passed by the municipal council shall not be exceeded.

Municipal Annual Report.

Annual administration report.

115 The chairman shall, as soon after the first day of January in each year as may be, prepare a detailed report of his administration during the previous year, with a statement showing the nature and amount of receipts and disbursements on account of the municipal fund during that

year. Such report and statement shall be submitted to the municipal council, and with any resolutions that may have been passed thereon by the said council, shall be submitted not later than the thirty-first day of August in every year to the Governor in Executive Council, and copies thereof shall be kept for sale at the municipal office.

Report to be submitted to council and to Government, and copies to be kept for sale.

Audit of Accounts.

116 The Governor in Executive Council shall nominate in every year one or more persons to be auditors of municipal accounts, who shall maintain and keep a continuous audit of the said accounts during that year.

Appointment of auditors.

117 For the purposes of any audit and examination of accounts under this Ordinance, the auditor or auditors may, by summons in writing, require the production before him or them of all books, deeds, contracts, accounts, vouchers, and the other documents and papers which he or they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents, or papers, to appear before him or them at any such audit and examination or adjournment thereof, and to make and sign a declaration with respect to the same.

Powers of auditors.

118 If any such person neglect or refuse to produce any such books, deeds, contracts, accounts, vouchers, documents, or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a fine not exceeding one hundred rupees, and to a further fine not exceeding fifty rupees for each day during which the offence is continued after he has been convicted of such offence.

Penalty.

119 The auditor or auditors shall submit a monthly report of his or their audit to the municipal council, and shall also submit an annual report of such audit to the municipal council, and a duplicate of such annual report to the Governor in Executive Council, on or before the thirty-first day of March in every year.

Auditors to submit report to council and Government.

120 The auditor or auditors may receive out of the municipal fund such remuneration as the municipal council determine, with the sanction of the Governor in Executive Council.

Auditors may be remunerated.

Municipal Statistics.

121 The Governor in Executive Council may at all times call for such statistics connected with the working, income, and expenditure of the municipality as he deems fit; and the chairman and municipal council shall forthwith comply with such requisition.

Power of Government to call for statistics.

Power to make By-laws.

122 It shall be lawful to the municipal council from time to time to make by-laws, not inconsistent with the provisions of this Ordinance, for—

By-laws.

(*a*) The creation of offices other than those of chairman, assistant chairman, and municipal magistrate, and the payment of salaries to the holders of such offices;

(*b*) The regulation of their meetings;
(*c*) The form in which all estimates, budgets, statements, and returns incidental to the business of the municipality shall be drawn up;
(*d*) The form in which municipal accounts shall be kept;
(*e*) The due performance of their several duties by all officers and servants of the municipality;
(*f*) The regulation of buildings in the matters directed by sections 176 to 201 of this Ordinance;
(*g*) The classification and valuation of buildings, lands, and tenements within the municipality;
(*h*) The making, repairing, cleaning, watering, and lighting streets, roads, canals, and bridges;
(*i*) The regulation of weights and measures;
(*j*) The assize of bread;
(*k*) The establishment and regulation of markets;
(*m*) The seizure and forfeiture of unwholesome flesh, fish, or other provisions introduced into the municipality or exposed for sale therein;
(*n*) The prevention and abatement of public nuisances;
(*o*) The suppression of cruelty to animals;
(*p*) The conservancy and improvement of the town;
(*q*) The collection and levy of rates and taxes; and
(*r*) Every other purpose which may by the municipal council be deemed necessary for carrying out the several provisions of this Ordinance.

Power to alter, amend, or cancel

123 The municipal council may from time to time alter, amend, or cancel any by-law or all such by-laws, and substitute another or others therefor not inconsistent with the provisions of this Ordinance. Provided that no by-law shall be repugnant to any law in force in this colony, and that no fine for any infringement of a by-law shall exceed twenty rupees, and that in case of a continuing infringement no fine shall exceed ten rupees for every day after written notice from the said council of such infringement.

Proviso.

By-laws require to be confirmed by Governor in council.

124 No by-law or alteration, amendment, or cancelment of, or substitution for, any by-law shall have effect until the same is confirmed by the Governor in Executive Council. Notice of such confirmation shall be given by Proclamation to be made in that behalf; and such by-laws when so confirmed and published in the *Government Gazette* shall be as valid and effectual as if they had been herein enacted.

Existing by-laws to continue in force until superseded.

125 All by-laws of the late municipal councils of Colombo, Kandy, and Galle, respectively, which are in force at the coming into operation of this Ordinance, not inconsistent with any of its provisions, save and except such by-laws as relate to the performance of labour or to the commutation thereof, and which said by-laws are hereby repealed, shall continue to be in force until superseded.

Copies of by-laws to be kept for sale.

126 Copies of the by-laws shall be kept at the municipal office, and shall be available for sale to the public at cost price.

Rates and Taxes.

127 It shall be lawful to the municipal council, and they are hereby authorized and required, subject to the provisions hereinafter contained, from time to time, so often as they shall think necessary, to make and assess, with the sanction of the Governor in Executive Council, any separate or consolidated rate or rates on the annual value of all houses and buildings of every description, and all lands and tenements whatsoever, within the municipality, for— **Council may assess separate or consolidated rate or rates on real property.**

(*a*) The maintenance of the police under section 262;
(*b*) The lighting of the public streets, places, and buildings;
(*c*) The supply of water to the municipality, and the cost of waterworks, drinking fountains, tanks, and wells.

Such rate or rates shall endure for any period not exceeding twelve months, shall not exceed in the aggregate the maximum rate or rates from time to time determined by the Governor in Executive Council, and shall be payable by such instalments and at such times as the chairman, with the sanction of the standing committee, shall direct, and shall be assessed and levied in the manner hereinafter mentioned or by any by-law provided.

Provided that no house, building, land, or tenement shall pay less than one rupee a year in respect of such consolidated rate, or less than fifty cents in respect of such separate rate; and provided further that all buildings appropriated to religious worship, all burial and burning grounds, and all buildings in charge of military sentries shall be exempted from the payment of such rate or rates. **Proviso.**

Provided also that nothing herein contained shall be deemed to affect the right of the municipal council of Kandy to continue to levy a water-rate within the Kandy Municipality under the provisions of "The Kandy Waterworks Loan Ordinance, 1884," and the Ordinance No. 29 of 1884, intituled "An Ordinance to amend 'The Kandy Waterworks Loan Ordinance, 1884.'" **Proviso.**

128 It shall be lawful to the municipal council, and they are hereby authorized and empowered, with the sanction of the Governor in Executive Council, to levy an annual tax on all carriages, carts, hackeries, horses, ponies, mules, bullocks, and asses kept or used within the municipality, and which are not (as respects carts, carriages, and coaches) the carts, carriages other than hackeries, and coaches referred to in section 132, at the rates not exceeding those specified in schedule C, and such tax shall be payable at such times as the chairman shall direct, and shall be assessed and levied in the manner hereinafter mentioned or by any by-law provided. **Taxes on carriages, &c., not plying for hire.**

Provided that such tax shall not apply to or include the vehicles and animals kept or used by the Governor and his personal staff, gun carriages or ordnance carts or wagons, artillery and cavalry horses, or horses of the mounted **Proviso.**

orderlies or police, or the respectively authorized number of horses belonging to military officers doing staff, regimental, or other public duty in the town, or vehicles kept for sale by *bonâ fide* dealers in such vehicles.

Municipal council empowered to levy an annual tax on dogs.

129 It shall be lawful to the municipal council, and they are hereby authorized and empowered, with the sanction of the Governor in Executive Council, to levy an annual tax on each dog kept within the municipality, not exceeding one rupee and fifty cents, and to make such by-laws as shall be necessary for collecting and levying the same ; and such tax shall be payable in such proportions and at such times as the chairman shall direct, and shall be assessed and levied as by any by-law provided.

Inhabitants of the municipality liable to a tax payable in labour or in money in commutation of such labour.

130 From and after the day on which this Ordinance comes into force, no person residing within the limits of the municipality shall be liable to perform labour upon the roads or other means of communication by land or by water in this colony, or to pay any sum of money in commutation of such labour, under the provisions of the Ordinance No. 10 of 1861, entitled "An Ordinance to consolidate and amend the Laws relating to Public Thoroughfares in this Colony." But it shall be lawful to the municipal council, acting under the authority of this Ordinance, to impose and enforce an annual tax payable in six days' labour, or in money in commutation of such labour, upon all persons residing within the limits of the municipality who would have been liable under the provisions of the law to the performance of labour for the maintenance of the roads or other public means of communication by land or by water within the municipality if this Ordinance had not been passed, and to make such by-laws for—

By-laws.

(*a*) Determining the amount to be paid in commutation of the labour due, and for enforcing the recovery of such commutation ;

(*b*) Calling out and compelling the performance of such labour ; and

(*c*) Enforcing, in case of default, the performance of increased or double labour, or the payment of increased or double commutation, and costs,

as to the municipal council shall seem fit and necessary.

Proviso.

Provided that such increased or double labour shall not exceed, in the aggregate, twelve days' labour, and such increased or double commutation in lieu of the same, exclusive of costs, shall not exceed five rupees from any person in one year.

Proviso.

Provided further that until such by-laws are made by the municipal council, the provisions of the Ordinance No. 10 of 1861 and of the Ordinance No. 31 of 1884 shall, so far as the same may be made applicable, be acted upon and deemed of force as if the same were inserted herein, and that all the powers and authorities vested under the said Ordinances in

the chairman of any district or provincial road committee shall, so far as respects any municipality, be vested in, and exercised by, the chairman of the municipal council, *or in his absence by the municipal magistrate.* [§ 8. 26 *of 1890*]

131 The municipal council shall be entitled, with the sanction of the Governor in Executive Council, to establish tolls, and to take and receive all tolls payable within the municipality; and it shall be lawful to the Governor in Executive Council to make over to the municipal council such existing or future tolls lawfully established, or such proportion of any such tolls as to him may seem fit, for the proper maintenance of the roads within the municipality. When the municipal council shall so establish tolls, or when tolls shall be made over to them as aforesaid, they shall be empowered to appoint toll-keepers, and the provisions of "The Toll Ordinance, 1867," shall, unless altered or modified by any by-laws, apply to the tolls so established or made

Tolls within the municipality.

Provided that the municipal councils of Colombo, Kandy, and Galle, respectively, shall continue to take and receive the tolls heretofore taken and received by the late municipal councils of Colombo, Kandy, and Galle, respectively.

Proviso.

132 The municipal council shall be entitled to take and receive for the municipal fund the following duties and sums payable under the Ordinances hereinafter cited, or any other Ordinance or Ordinances to be hereafter enacted for the purposes or instead of the said cited Ordinances respectively, or any of them:

Stamp duties and sums payable under certain Ordinances made over to the municipal fund.

(*a*) All stamp duties payable for or in respect of the licenses of any carriages kept or used within the municipality under or by virtue of "The Carriage Ordinance, 1873;" all stamp duties payable for or in respect of the licenses of any boats licensed by the master attendant of the port, if any, of the municipality, under or by virtue of "The Masters Attendant's Ordinance, 1865;" and all stamp duties payable for or in respect of the licenses of any carts, boats, or coaches kept or used within the municipality, and registered under or by virtue of "The Carriers' Ordinance, 1865."

"Carriage Ordinance, 1873."

"Masters Attendant's Ordinance, 1865."

"Carriers' Ordinance, 1865."

Provided that in respect of the last-mentioned licenses, the stamp duty payable on each such license shall be four rupees, anything in the said Carriers' Ordinance, No. 14 of 1865, to the contrary notwithstanding.

Proviso.

(*b*) All sums paid for fees and stamp duties for licenses by the inhabitants of the municipality under Ordinance No. 19 of 1869, intituled "To make provision relating to the possession and use of Firearms;" under "The Licensing Ordinance, 1891;" under "The Sale of Poisons Regulation Ordinance, 1876;" and under the Ordinance No. 4 of 1878, intituled

"Firearms Ordinance, 1869."

"Licensing Ordinance, 1891."

"Poisons Ordinance, 1876."

"Opium Ordinance, 1878."

"An Ordinance to amend the Law relating to the possession and sale of Opium and Bhang."

Proviso.

Provided that the chairman shall, and he is hereby required to, issue licenses to carry on the trade of a butcher within the municipality.

"Advocates' and Proctors' Ordinance, 1848."

"Notaries' Ordinance, 1877.'

"Stamp Ordinance, 1884."

(*c*) All such sums as shall be paid by the inhabitants of the municipality as stamp duties for the certificates of advocates and proctors under Ordinance No. 12 of 1848, intituled "For making provision in certain respects touching the admission of Advocates and Proctors, and for the annual registration of practising Proctors;" for certificates of notaries under the Ordinance No. 2 of 1877, intituled "To amend and consolidate the Law* relating to Notaries;" and for articles of clerkship or contract to serve as clerk for admission as a notary or apothecary under "The Stamp Duties Ordinance, 1884."

Proviso.

Provided that out of such sums as aforesaid the municipal council of Colombo shall pay annually to the committee of the Colombo Law Library a sum of five hundred rupees.

Recovery of Rates and Taxes.

Property to be valued.

133 It shall be lawful to the chairman from time to time to order and direct such valuer or valuers as he shall appoint for the purpose of the valuation of property within the municipality, to make and enter in books provided for that purpose an assessment of the annual value of every house, building, land, or tenement whatever liable to be so assessed within the municipality, according to its annual value, and such assessment books, when completed by such valuers respectively, shall be by them delivered to the chairman, who shall as soon as may be conveniently done thereafter cause a notice of assessment to be served on or left at the premises of every occupier, whether he be proprietor, joint proprietor, or tenant, of the house, building, land, or tenement assessed; and the said notice shall be in the form contained in the schedule D hereunto annexed; and there shall be appended thereto a demand of payment of the rate or rates leviable within such time and in such proportions as the chairman, with the sanction of the standing committee, shall deem reasonable.

Property may not be seized for more than two quarters' arrears.

Exceptions.

134 It shall not be lawful to the municipal council to seize any movable property which may be found in or upon any house, building, land, or tenement in respect of which such rate or rates shall be due for any arrears of such rate or rates beyond two quarters next preceding such seizure; unless such movable property shall belong to any person who was the owner or joint owner of the said house, building, land, or tenement at the time the arrears beyond such

* Now regulated by the Stamp Ordinance of 1890, under title "Articles of Apprenticeship."

two quarters accrued and became due; or unless such movable property shall belong to any person who shall have occupied the said house, building, land, or tenement at the time when the said last-mentioned arrears accrued and became due.

135 It shall be lawful to the occupant of any house, building, land, or tenement, not being the owner or joint owner thereof, whose property shall have been seized as aforesaid, or who to avoid such seizure, or, after seizure, to avoid a sale of such property, shall have paid the amount of rate or rates due in respect of such house, building, land, or tenement, and costs, to deduct the amount paid by him from the rent due by him on account of the said house, building, land, or tenement to the owner or owners thereof; and the receipt of the chairman for the amount so paid shall be deemed an acquittance in full for the like amount of rent. Provided always that nothing herein contained shall authorize any such deduction from the rent by any occupant who by the terms of his lease or other agreement is himself bound and liable to pay such rate or rates.

Tenant paying rates to avoid seizure of his property may deduct it from the rent.

136 The last valuation which at the date of this Ordinance coming into operation shall have been made under the Ordinances No. 17 of 1865 and No. 3 of 1875, or under any other Ordinance or Ordinances providing for a police assessment rate, may be taken to be the first valuation under this Ordinance, until the chairman shall have caused a new valuation to be made.

Assessment under previous Ordinances may be adopted for first year.

137 When the name of the owner or occupier is not known, it shall be sufficient to designate him in the assessment book, and also in any notice or other proceeding under this Ordinance, as the "owner" or "occupier" of the property on which the rate is assessed, without further description.

Owner or occupier how to be designated if his name be unknown.

138 In order to enable the municipal council to assess the annual value of any houses, buildings, or lands liable to the rate or rates, it shall be lawful to the chairman to require the owner or occupier of such houses, buildings, or lands to furnish returns of the rent or annual value thereof, and for the like purpose it shall be lawful to the chairman, or any person appointed by him for that purpose, at any time between sunrise and sunset to enter and inspect such houses, buildings, or lands. Whoever refuses or fails to furnish the return herein specified for the space of one week from the day on which he shall have been required so to do, and whoever knowingly makes a false or incorrect return, and whoever hinders, obstructs, or prevents the chairman, or any person appointed by him as aforesaid, from entering or inspecting, or if need be surveying, any such houses, buildings, or lands, shall be liable to a fine not exceeding fifty rupees.

Returns may be required for purposes of valuation.

Power to enter houses, &c.

Penalties for not furnishing returns, &c.

139 It shall not be necessary to prepare a new assessment every year, but the municipal council may adopt the valuation or assessment contained in the book for the preceding year, with such alterations as may, in particular cases, be deemed

New assessment or valuation book need not be prepared yearly.

Proviso.

necessary, as the valuation or assessment for the year following: Provided always that notice of such valuation and assessment shall be given in the manner prescribed herein, or by any by-law prescribed.

Standing committee to revise assessment.

140 The standing committee shall have power and authority to revise the assessment made by the valuers, increasing or decreasing the same as they shall see fit.

Remedy of persons dissatisfied with the assessment or non-assessment of rateable property.

141 If any person shall be aggrieved by the assessment or non-assessment of any house, building, land, or tenement within the municipality, it shall be lawful to him to object to, and appeal against, such assessment or non-assessment in the manner provided by the Ordinance No. 5 of 1867, intituled "An Ordinance relating to the Assessment of Lands for the maintenance of the Police Force," or by any other Ordinance to be in that behalf hereafter enacted.

[§ 9, 26 of 1890]

Provided that no objection shall be entertained by any court of requests or district court unless the same is made within three months from the date of service of the notice of assessment prescribed by section 133, and after the lapse of two months from the date on which the objector furnishes a statement in writing of the specific grounds on which his objection is founded to the chairman and to the person, if any, whose property has not been assessed.

Any person liable to any rate leaving the municipality during a quarter may be made at once to pay such rate up to date.

142 If, during the course of any quarter, the chairman shall have reason to believe that any person who, if the current quarter had come to an end, would be liable to pay any rate or rates for that quarter, is about to remove from the municipality forthwith, it shall be lawful to the chairman to declare such person liable to immediate payment of such rate or rates or any of them from the commencement of that quarter up to the date of such declaration, and the amount of such rate or rates so declared to be due shall be leviable forthwith, in like manner and in all respects as the said rate or rates may in ordinary cases be leviable.

Tax on vehicles and animals payable half-yearly in advance

[§ 10, 26 of 1890]

Not payable by person in possession for less than sixty days in half-year.

143 The tax leviable under section 128 shall be payable half-yearly in advance for each half of the year: the amount payable for each half-year shall be payable by any person in whose possession, or custody, or control any vehicle or animal liable to the tax may be found so soon as it has been for *sixty* days kept or used within the municipality. But no person shall be liable under this section for any vehicle or animal which has been in his possession for less than sixty days in any half-year.

Proviso.

Provided that no person by reason of the transfer of ownership shall be liable to pay the tax for any vehicle or animal on which tax had already been paid for the half-year in which the ownership was transferred.

Chairman may compound with livery stable-keepers and others.

144 The chairman may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping or using carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the tax specified in schedule C. Every such composition shall be subject to sanction by the standing committee.

145 The chairman shall from time to time cause to be prepared and entered in distinct columns in a book to be kept at the municipal office, and to be open to the inspection of any persons interested therein, a list of the persons liable to the payment of the tax under section 128, a description of the vehicles and animals in respect of which they are liable, and the amount of the tax assessed thereon.

List of persons liable to the tax to be entered in a book.

146 In order to enable the chairman to make such list, the chairman, or any officer authorized by him, shall send to all persons supposed to be liable to the payment of such tax, a schedule to be filled up with such information respecting the vehicles and animals kept by them as the chairman may judge necessary for the assessment of the tax. The schedule shall be filled up in writing, and signed and dated, and returned to the municipal office by every person to whom it has been sent, whether or not liable to the payment of such tax; and whoever refuses to accept or refuses, neglects, or omits duly to fill up and return such schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable to a fine not exceeding fifty rupees.

Returns may be required for the purposes of making a list.

147 It shall be lawful to the chairman, or any person appointed by him for that purpose, at any time between sunrise and sunset to enter and inspect any stable or coach-house, or any place wherein he may have reason to believe that there is any vehicle or animal liable to taxation under section 128 of this Ordinance: and the chairman may summon any person whom he has reason to believe to be liable to the payment of such tax, or any other person, and may examine any such person as to the number and description of the horses and carriages in respect of which such person is liable to be taxed.

Power to inspect stables, &c., and to summon persons liable to the payment of the tax.

148 Whoever, on being summoned under the preceding section, fails, without lawful excuse, to appear in pursuance of the summons, and whoever hinders or obstructs the chairman, or any person appointed by him as aforesaid, from entering or inspecting or leaving any such stable, coach-house, or place, shall be liable to a fine not exceeding fifty rupees.

Penalty for disobeying summons, or hindering the chairman.

149 If the amount of any rate or rates assessed under section 127 or the amount of any tax or taxes imposed under this Ordinance shall not be paid into the municipal office within such time as the chairman shall direct, a warrant signed by the chairman shall be issued to some collector or other officer of the municipality named therein, directing him to levy such rate or tax and the costs of recovery, by seizure and sale of all and singular the movable or immovable property of the proprietor, or of any joint proprietor, of the premises on account of which such rate or rates may be due, and of all movable property, to whomsoever the same may belong, which may be found in or upon any such premises; and, in the case of non-payment of any tax or taxes, to levy the same and the costs of recovery by seizure and sale of the property on account of which such tax or taxes may be due,

If rate or tax not duly paid, warrant for recovery thereof to issue.

Costs

and of all and singular the movable or immovable property of the defaulter. And the said warrant shall be in the form contained in the schedule E hereunto annexed, *with such variations as the circumstances require.*

[§ *11, 26 of 1890*]

Costs recoverable as per table of charges.

150 Such costs of recovery as in the next preceding section mentioned shall be according to the following table of charges :

(*a*) A charge of ten per cent. on amount of rate or tax due by way of costs on the issue of a warrant;

(*b*) For seizure and removal of goods seized, in case such removal takes place, a charge not exceeding five cents for every fifty cents of rate or tax due;

(*c*) For keeping the same in safe custody in case of detention, a charge not exceeding five cents per day;

(*d*) For keeping a person in possession in case of seizure of immovable property, or if goods seized are not removed, a charge not exceeding fifty cents per day;

(*e*) For the expenses of sale, when any takes place, a charge not exceeding twenty-five cents on every ten rupees of the net proceeds of sale.

Property seized to be sold by auction after eight days.

151 The property seized in virtue of any such warrant shall be sold by public auction (of which at least six days' notice shall be given in one or more of the local newspapers) by the officer to whom such warrant is addressed, or some other officer of the municipality appointed by the chairman for that purpose, at any time after the expiration of eight days from the day of such seizure, unless in the meantime the amount of the rate or rates or tax or taxes and of the costs aforesaid be duly paid: and the overplus accruing by such sale (if there be any), after deducting the amount of such rate or rates or tax or taxes, and the costs, shall be restored to the owner or joint owner of the property so sold.

Proviso.

Provided, however, that whenever it shall be necessary to seize and sell the property of any person making default in the payment of any rate or tax, it shall be the duty of the officer acting under the chairman's warrant as aforesaid to observe, so far as the same may be applicable, the order and course prescribed by the Ordinance No. 6 of 1873, intituled "An Ordinance to prescribe the order in which the property of Public Defaulters may in certain cases be seized and sold," or by any other Ordinance to be in that behalf hereafter enacted.

Overplus arising from sale by distraint if unclaimed for twelve months to be forfeited.

152 If no demand shall be made for any overplus accruing from any sale made in pursuance of the last preceding section by the owner or joint owner of the property sold, within twelve months from the date of such sale, the chairman shall pay the amount of such overplus to the credit of the municipal fund, and no person thereafter shall be entitled to demand or receive the same.

Houses may be broken open in the daytime for purposes of seizure.

153 It shall be lawful to the person to whom any such warrant is addressed to break open in the daytime any house or building for the purpose of seizing property in pursuance of such warrant.

Certificate of sale.

154 If land or other immovable property be sold under the warrant, a certificate in substantially the form contained in the schedule F hereunto annexed, signed by the chairman, shall be sufficient to vest the property in the purchaser free from all encumbrances. Such certificate shall be liable to the stamp duty leviable on conveyances of immovable property, and to any registration or other charges authorized by law, such duty and charges being payable by the purchaser.

Proviso.

Provided, however, that it shall be lawful for a mortgagee of such land or immovable property to pay and discharge the amount of rate or tax and costs due under and by virtue of such warrant; and upon such payment and discharge he shall be entitled to add such amount to the sum due upon his mortgage, and the amount so added shall be secured by the mortgage held by him.

Council may purchase land sold for non-payment of rate or tax due.

155 Whenever land or other immovable property is sold under section 151, it shall be lawful for the chairman or any person authorized by him in that behalf to bid at the sale for such land or other immovable property, and to purchase the same for and on behalf of the municipal council.

Council may take credit to extent of rate or tax and costs due.

156 Whenever the municipal council purchases any such land or other immovable property, the municipal council shall not be required to pay the whole of the purchase money, but shall be entitled to take credit for the amount due under such warrant as aforesaid, and shall only be required to pay the balance, if any, to the owner or person entitled to the property sold, after deducting such amount which the chairman or person authorized by him is hereby empowered to retain.

Proviso.

Provided always that in the event of any land or other immovable property sold under section 151 realizing a less amount than that due to the municipal council, nothing herein contained shall preclude the said council from recovering the balance of any amount which may be due to them after deducting the purchase money realized by the sale of the land or other immovable property.

Form of conveyance to the council.

157 Whenever land or other immovable property is purchased by the municipal council under the provisions of this Ordinance, a certificate substantially in the form G contained in the schedule to this Ordinance, signed by the chairman, shall vest the property sold absolutely in the said council free from all encumbrances; and such certificate shall be received in the courts of justice of this colony as conclusive evidence of the title of the municipal council to such land or other immovable property. And such certificate shall not be liable to the stamp duty and charges payable under section 154.

Council may sell property vested in them.

158 It shall be lawful to the municipal council, for valuable consideration, to sell and convey to any person or corporation any land or other immovable property vested in them under the last preceding section.

Assessment, &c., not to be impeached for want of form.

159 No assessment or valuation, and no charge or demand of rate or tax under the authority of this Ordinance, and no seizure and sale, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment or the mode of seizure and sale : Provided that the directions of this Ordinance or of any by-law made thereunder be in substance and effect complied with, and no proceedings under this Ordinance or by-law shall be quashed or set aside for want of form in any court of justice.

Proviso.

General Conservancy of the Town.

Power to make and improve streets.

160 The municipal council, with the sanction of the Governor in Executive Council, may lay out and make new streets, and may build and construct bridges and tunnels ; and may turn, divert, discontinue, or stop up any street ; and may widen, open, enlarge, or otherwise improve any such street, making due compensation from the municipal fund to the owners and occupiers of any land, houses, or buildings which may be required for any such purposes.

Contracts for tramways. [§ *12, 26 of 1890*]

160 (*a*) The municipal council, with the sanction of the Governor in Executive Council, may, subject to the provisions of the Ordinance No. 5 of 1873, enter into an agreement or contract with any person or persons, corporation, or company, for the purpose of granting to such person or persons, corporation, or company, the right to construct, maintain, and use a tramway or tramways within the municipality, upon the terms, for the consideration, and subject to the conditions and in the manner mentioned in such agreement, so far as the same shall not be inconsistent with the provisions of the said Ordinance No. 5 of 1873.

Power to take land adjoining new streets for building purposes.

161 In laying out or making any new streets, or in turning, diverting, widening, opening, enlarging, or otherwise improving any street, in addition to the land required for the carriageways and footways thereof, the municipal council may, with the sanction of the Governor in Executive Council, also purchase the land necessary for the houses and buildings to form the said street, and may, with the like sanction, sell and dispose of the same, with such stipulations and conditions as to the class and description of houses or buildings to be erected thereon, as they shall think fit. Provided that if any land be taken under the provisions of this Ordinance compensation shall be made to the owners for any damage which may be done thereby to any adjoining land or buildings of such owners, and such compensation shall, in case of dispute, be ascertained and determined as hereinafter provided.

Proviso.

Compensation for damages to adjoining land.

Power to agree for purchase of land for improving streets.

162 The municipal council may, with the sanction of the Governor in Executive Council, agree with the owners of any land for the absolute purchase thereof, for the purpose of laying out and making new streets, or of widening, enlarging, or otherwise improving any of the streets, for any purpose whatever connected with the conservancy or general improvement of the town.

If necessary land may be acquired under the law for the acquisition of land for public purposes.

163 When there is any hindrance to the acquisition by purchase of any land or building required for the purposes of this Ordinance, the Governor, upon the application of the municipal council, and after such inquiry as may be thought proper, may declare that the land or building is needed for a public purpose and may order proceedings for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any laws which now are or which may hereafter be in force for the acquisition of land for public purposes; and the Governor may vest such land or building in the municipal council on their paying the compensation awarded.

Power to sell lands or buildings.
[§ *13, 26 of 1890*]

164 The municipal council, with the sanction of the Governor in Executive Council, may sell *or lease* any lands or buildings vested in them by virtue of this Ordinance, or acquired by them for the purposes thereof, either in block or in parcels as they may find most convenient and advantageous; and the proceeds of such sale *or the rent under such lease* shall be paid to the credit of the municipal fund.

Power to sell streets.

165 Whenever any street vested in them shall be discontinued and stopped up under the provisions of this Ordinance, the municipal council, with the sanction of the Governor in Executive Council, may sell the street or such part thereof as shall not be required for the purposes of this Ordinance, and the proceeds of such sale shall be paid to the credit of the municipal fund.

Council to put up lamp-posts and lamps

166 The municipal council may cause such lamp-irons or lamp-posts, or other posts, to be put or fixed upon, or against, the walls or palisades of any houses, tenements, buildings, or enclosures (doing as little damage as may be practicable thereto), or to be put up or erected in such other manner, within all or any of the said roads, streets, and places within the limits of the municipality, as shall be deemed proper, and may also cause such number of lamps of such sizes and sorts to be provided and affixed and put upon such lamp-irons and lamp-posts as shall be necessary for lighting all or any of such roads, streets, and places, and cause the same to be lighted during such hours as shall be necessary, and also from time to time make such by-laws for any of the purposes specified in this section as they shall find necessary.

Council to keep up fire-engines.

167 The municipal council may keep up fire-engines, with pipes and other utensils proper to the same, for the use of the municipality, and provide a proper place or places for the keeping of the said fire-engines, and make such by-laws as they shall deem necessary.

Persons injuring lamps, lamp-irons, &c., to be punished.

168 If any person shall wilfully break, throw down, spoil, or damage any lamp, lamp-iron, lamp-post, pole, rail, chain, or other furniture thereof, or wilfully extinguish the light of any lamp, or break, spoil, or damage any building, or shall wilfully break or damage any public waterworks, water-course, drain, or ditch, within the limits of the said

municipality, or any property belonging to the municipality, it shall be lawful for any person who shall see the offence committed, to apprehend, and also for any other person to assist in apprehending, the offender, and by the authority of this Ordinance, and without any warrant, to deliver him to any constable, who is to keep him in safe custody, and with all reasonable despatch to convey him before a magistrate or municipal magistrate, and if the party accused shall be convicted of any such offence, he shall, in addition to being liable to a fine not exceeding fifty rupees, be adjudged by such magistrate to make full satisfaction for the damage which shall have been done by him, and one moiety of such fine shall be paid to the person apprehending such offender, and the other moiety shall be applied for the purposes of this Ordinance; and in case any such offender shall not, on conviction, pay the said fine and satisfaction, such proceedings shall be taken as may lawfully be taken in the case of any fine or penalty imposed by a police court.

Penalty on persons polluting streams which flow into reservoirs or waterworks.

169 Any person who shall bathe in, or wash any clothes or other things in, or cause or suffer any dirt, refuse, or impurity to flow into, or shall otherwise in any manner pollute or contaminate any reservoir used for the purposes of the waterworks belonging to the municipality, or any stream or water-course whereof the water flows into or feeds any such reservoir, shall be guilty of an offence, and be liable on conviction to a fine not exceeding fifty rupees, and, in case of a continued breach, to a further penalty not exceeding ten rupees for each day such breach is continued after notice to the offender.

Cleansing streets.

170 The chairman shall cause the streets, including the footways thereof, from time to time to be properly swept and cleansed, and the dust, dirt, ashes, rubbish, and filth of every sort found thereon to be collected and at once removed.

Dust boxes in streets.

171 The chairman may cause any number of movable or fixed dust boxes, or other convenient receptacles, wherein dust, dirt, ashes, and rubbish shall be temporarily deposited, to be provided and placed in proper and convenient situations, or carts to go round at stated hours to receive the same, and may require the occupiers of houses in streets to cause all such matter as aforesaid to be deposited daily, or otherwise periodically, in the said receptacles or carts. Every person who, after such receptacles or carts have been provided, and after such requisition as above mentioned has been made, shall deposit, or cause or permit to be deposited, any such matter in any street, except in such receptacles or carts, shall be punished with fine which may extend to ten rupees.

Place of deposit for filth.

172 The chairman, with the consent of the standing committee, from time to time, shall provide places convenient for the deposit of the night soil, dung, and other filth, and the dust, dirt, ashes, and rubbish collected and removed under the authority of this Ordinance; and for the above or any of the purposes of this Ordinance, the municipal council may, with the sanction of the Governor

in Executive Council, purchase or take on lease any land or buildings by them considered necessary, or may cause any new building to be made upon any land to be purchased or hired by them. Provided that no such dust, dirt, ashes, rubbish, night soil, dung, and other filth collected and removed under the authority of this Ordinance shall be deposited in the neighbourhood of populous localities, or in any place not provided for the purpose by the municipal council.

Proviso.

173 All dirt, dust, ashes, rubbish, sewage, soil, dung, and filth collected from streets, houses, privies, sewers, and cesspools shall be the property of the municipal council, and the chairman shall have power to sell or dispose of the same as he may think proper, and the money arising from the sale thereof shall be paid to the credit of the municipal fund.

All rubbish, &c., collected to be the property of municipal council.

174 The chairman, so far as he may deem requisite for the public convenience, shall cause the streets to be watered, and for that purpose the municipal council may provide such works, engines, and establishments as they may think necessary.

Watering streets.

175 Whoever, after this Ordinance comes into operation, builds any wall or erects or sets up any fence, rail, post, or other obstruction or encroachment in any street, or deposits or causes to be placed or deposited any box, bale, or package of merchandise, or any other thing in or over any open drain, sewer, or aqueduct along the side of any such street, or on any portion of such street, shall be liable to a fine not exceeding one hundred rupees; and the chairman shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person erecting or depositing the same, and shall be recoverable as hereinafter provided. Nothing herein contained shall prevent the chairman from allowing any temporary erections in any public street on occasions of festivals and ceremonies.

Future obstructions in streets or roads.

Power to remove obstructions.

Temporary obstructions on occasion of festivals, &c.

176 It shall not be lawful for any person to erect any range or block of six or more huts or sheds or buildings, whether to be used as dwellings or stables or for any other purpose, on any plot or parcel of ground not previously built upon, or on which no buildings are standing, or to add any hut, shed, or building to any range or block of huts, sheds, or buildings already existing when this Ordinance comes into operation, without giving fourteen days' previous notice in writing to the chairman; and the chairman may, with the consent of the standing committee, refuse to grant permission, or may require such huts, sheds, or buildings to be built so that they may stand in regular lines, with a free passage or way in front of each line of such width as the chairman may think proper for salutary ventilation, and to facilitate scavenging, and at such a level as will admit of sufficient drainage, and shall require such huts, sheds, or buildings to be provided with such number of out-offices and privies as he thinks necessary. And if any such huts, sheds,

Erection of new huts to be under the control of the standing committee.

or buildings be built without giving such notice to the chairman or otherwise than as required by him, the chairman shall give notice to the owner thereof or of the ground upon which the same are built or being built, by affixing a notice to some conspicuous part of some one of such huts, sheds, or buildings, to take down and remove the same within one month, or to effect such alterations as the chairman may deem necessary. If such huts or buildings be not taken down, removed, or altered within one month according to such notice, the chairman shall cause the same to be taken down and removed, and the expenses incurred in doing so shall be paid by the owner thereof or of the ground upon which the same are built, and shall be recoverable as hereinafter provided.

Power of the chairman as to existing huts.

177 Whenever the chairman is satisfied that any huts, sheds, or buildings, whether used as dwellings or stables, or for any other purpose, and whether existing at the time when this Ordinance comes into operation or subsequently erected, are by reason of the manner in which the huts, sheds, or buildings are crowded together, or of the want of drainage and the impracticability of scavenging, attended with risk of disease to the inhabitants of the neighbourhood, he shall cause a notice to be affixed to some conspicuous part of any one of such huts, sheds, or buildings, requiring the owners or occupiers thereof, or at his option the owner of the land on which such huts, sheds, or buildings are constructed, within such reasonable time as may be fixed by the chairman for that purpose, to execute such operations as the chairman may deem necessary for the avoidance of such risk. And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the officer appointed by the chairman may cause the said huts, sheds, or buildings to be taken down, or such operations to be performed in respect of such huts, sheds, or buildings as the chairman may deem necessary to prevent such risk. If such huts, sheds, or buildings be pulled down, the said officer shall cause the materials of each hut, shed, or building to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut, shed, or building, or if the owner be unknown, or the title disputed, shall be held in deposit by the chairman until the person interested therein shall obtain the order of a competent court for the payment of the same.

Proviso.

Provided always that in case any huts, sheds, or buildings existing at the time when this Ordinance comes into operation shall be pulled down under this section, by order of the chairman, or in pursuance of his notice, compensation shall further be made to the owner thereof, and the amount thereof in case of dispute shall be ascertained and determined as hereinafter provided.

Houses may be set forward.

178 The chairman may, upon such terms as he thinks fit, allow any house or building to be set forward for improving the line of any street in which such house or building to be set forward is situated.

179 When any house or building, any part of which projects beyond the regular line of a street or beyond the front of the house or building on either side thereof, has either entirely or in greater part been taken down, burned down, or has fallen down, the chairman may require the same, when being rebuilt, to be set back to or towards the line of the street or the line of the adjoining houses or buildings, and the portion of land added to the street by so setting back the house or building shall thenceforth be deemed part of the street and be vested in the municipal council. Provided always that the municipal council shall make full compensation to the owner of any such house or building for any damage he may thereby sustain; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Projecting houses when taken down to be set back.

Proviso.

180 The chairman shall, from time to time, cause to be put up or painted on a conspicuous part of some house, building, wall, or place at or near each end, corner, or entrance of every street, the name by which such street is to be known; and whoever destroys, pulls down, or defaces any such name, or puts up or paints any name different from that put up or painted by order of the chairman, shall be liable to a penalty not exceeding ten rupees for each offence.

Names of streets.

181 The chairman may from time to time fix a number in a conspicuous place on the outer side of any house or building or at the entrance of the enclosure thereof fronting the street, and whoever destroys, pulls down, or defaces any such number shall be liable to a penalty not exceeding ten rupees for each offence.

Numbers on houses.

182 The owner of every house or building in any street shall, within one month after notice from the chairman to that effect, put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the roof and other part of such house or building, and for discharging the same in such manner as the chairman may direct, so that it shall not fall upon the persons passing along the street; and in default of compliance with such notice within the period aforesaid, such owner shall be liable to a fine not exceeding ten rupees for every day that he shall so make default.

Troughs and pipes to be fixed to houses.

183 The chairman may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction which before or after this Ordinance comes into operation shall have been or may hereafter be erected or placed against or in front of such house or building, if the same overhangs, or juts into, or in any way projects into or encroaches upon, or is an obstruction to the safe and convenient passage along any public street, or obstructs, or projects, or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such

Projections from houses not to be allowed.

projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the chairman; and in default thereof shall be liable to a fine not exceeding two hundred rupees, and the chairman in such case may remove such projection, encroachment, or obstruction, and the expenses of such removal shall be recoverable as hereinafter provided. Provided that when the expenses shall have been paid by the occupier, except in the case in which such projections, encroachments, or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house or building. Provided also that if such projection, encroachment, or obstruction shall have been lawfully made, the municipal council shall make reasonable compensation to every person who suffers damage by such removal or alteration, and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner hereinafter provided.

Proviso.

Proviso.

Projecting verandahs, &c., may be made in streets not less than thirty-six feet wide.

184 The chairman may give permission in writing to the owners or occupiers of houses or buildings in streets the width of which is not less than thirty-six feet, to put up open verandahs, balconies, sunshades, weather frames, and the like, to project over the street to an extent not exceeding four feet beyond the line of the plinth or basement wall.

Houses in a ruinous and dangerous state.

185 If in any street any house, building, or wall, or any thing affixed thereon be deemed by the chairman to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings or the occupiers thereof, or to passengers, he shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers, and shall cause notice in writing to be given to the owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require, and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the chairman shall cause all or so much of such house, building, wall, or thing as he shall think necessary, to be taken down, repaired, or otherwise secured; and all the expenses incurred by the chairman shall be paid by the owner or occupier of the premises, and shall be recoverable as hereinafter provided.

Sale of materials of ruinous houses.

186 If any such house, building, or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the chairman may sell the materials thereof, or so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall, on demand, restore any overplus arising from such sale to the owner of such house, building, or wall. Provided always that in case no demand for such overplus as aforesaid shall, within twelve months, be made by any person entitled to call for the same, the chairman shall be at liberty to pay the

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amount of such overplus to the credit of the municipal fund, and shall be freed from any liability to pay or answer for or in respect of such unclaimed overplus. The chairman, although he sells such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as by this Ordinance are given to him for compelling the payment of the whole of the said expenses.

Power to shut up and secure deserted houses.

187 If any building or land, by reason of abandonment or disputed ownership or other cause, shall remain untenanted, and thereby be a resort of idle and disorderly persons, or be complained of by any two or more of the neighbours as a nuisance, the chairman, after due inquiry, may cause notice in writing to be given to the owner, or the person claiming to be the owner, if he be known and resident within the municipality, or if he be not known shall cause such notice to be put on the door of the building or some conspicuous part of the premises, requiring the persons concerned therein, whoever they may be, to secure or enclose the same, or to abate the nuisance ; and if such notice shall not be complied with within eight days, the chairman shall cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the premises, and shall be recoverable as hereinafter provided.

Power to enter and cleanse houses and buildings.

188 It shall be lawful to the chairman, any time between sunrise and sunset, by himself or by any municipal officer authorized in that behalf, on giving such notice as hereinafter provided, to enter into and inspect all houses and buildings, and by an order in writing to direct all or any part to be forthwith internally and externally limewashed, or otherwise cleansed for sanitary reasons, and if the owner or occupier of such house or building neglect to do so within three days from the time when such order shall have been served upon him, the chairman may cause the same to be done, and the expenses incurred shall be paid by the owner or occupier, and shall be recoverable as hereinafter provided.

Overcrowding of houses.

189 Whenever it shall appear to the chairman that any house is so overcrowded as to be dangerous or prejudicial to the health of the inhabitants thereof, or of the neighbourhood, the chairman shall cause proceedings to be taken before the magistrate or municipal magistrate to abate such overcrowding, and such magistrate shall thereupon make such order as he may think fit, and the person permitting such overcrowding shall be liable to a penalty not exceeding twenty rupees for each day after the date of such order during which such overcrowding shall continue.

Government or council to make public sewers.

190 The Government or the municipal council may from time to time cause to be made such main or other sewers, drains, and water-courses as may be judged necessary for the effectual draining of the municipality, and, if needful, the Government or municipal council may carry them through, across, or under any street or any place laid out as or intended for a street, or any cellar or vault which may be under any

of the streets, and (after reasonable notice in writing in that behalf) into, through, or under any enclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done; and if any dispute shall arise touching the amount or apportionment of compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Council to repair and alter and discontinue sewers.

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191 The municipal council shall maintain, and from time to time repair, and as they see fit, enlarge, alter, arch over, or otherwise improve all or any of the sewers and drains, culverts, gutters, and water-courses made by and vested in them, and may discontinue, close up, or destroy such of them as they may deem useless or unnecessary. Provided always that the discontinuance, closing up, or destruction of any of them shall be so done as not to create a nuisance; and if by reason thereof or of any such alteration as hereinbefore mentioned, any person is deprived of the lawful use of any sewer, drain, culvert, gutter, or water-course, the municipal council shall with due diligence provide some other as effectual as the one of which he is so deprived.

Cleansing and emptying sewers.

192 The municipal council shall cause the sewers, drains, culverts, gutters, and water-courses made by and vested in them to be so constructed, maintained, and kept, as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of flushing, cleansing, and emptying the same they may construct and place, either above or under ground, such reservoirs, sluices, engines, and other works as may be necessary; and they may also, with the sanction of the Governor in Executive Council, cause all or any of such sewers, drains, culverts, gutters, and water-courses to communicate with and be emptied into the sea or other fit place; or they may cause the refuse from the same to be conveyed by a proper channel to the most convenient site for its deposit, and may sell the said refuse for any agricultural or other purpose as may be deemed most expedient, but so that it shall not become a nuisance.

Penalty for making unauthorized drains into public sewers.

193 Whoever, without the written consent of the chairman first obtained, makes or causes to be made any drain into any of the public sewers or drains, shall be liable to a penalty not exceeding fifty rupees, and the chairman may cause such drain to be demolished, altered, re-made, or otherwise dealt with as he may think fit; and all the expense incurred thereby shall be paid by the person making such drain, and shall be recoverable as hereinafter provided.

Buildings over sewers, &c., not to be erected without consent of chairman.

194 No building shall be newly erected over any public sewer, drain, culvert, gutter, or water-course without the written consent of the chairman; and if any building be so erected, the chairman may cause the same to be pulled down or otherwise dealt with as he may think fit, and the expenses thereby incurred shall be paid by the person offending, and be recoverable as hereinafter provided.

195 If any house or building in or near any street be at any time not drained to the satisfaction of the chairman by a sufficient drain or pipe communicating with some sewer or drain, or with the sea or some other place at which the municipal council are empowered to empty the sewers, and if there be such means of drainage within one hundred feet of any part of such house or building, the chairman may, after giving such notice as is hereinafter provided, construct or lay from such house or building a covered drain or pipe of such materials, of such size, at such level, and with such fall as he thinks necessary for the draining of such house or building; and the expenses incurred by the chairman in respect thereof, if not forthwith paid by the owner, shall be recoverable as hereinafter directed.

Chairman may make drains from houses which are not properly drained

196 If any house or building, newly or in greater part erected or re-built, in or near any street after this Ordinance comes into operation has such means of drainage as in the last preceding section mentioned, existing within one hundred feet thereof, the owner shall make a drain leading thereunto from the site of such house or building, of such materials, of such size, at such level, and with such fall as the chairman may direct; and if he neglects to do so within a reasonable time, the chairman may cause the same to be done, and the expenses thereby incurred shall be paid by the owner, and shall be recoverable as hereinafter provided.

Houses hereafter built in or near streets to have drain constructed under the orders of the chairman.

197 No house or building shall be hereafter built in or near any street upon a lower level than will allow of the drainage of such house or building being led into some public sewer or drain either then existing or to be hereafter made, or into the sea or other place into which the municipal council are empowered to empty the sewers.

Level of houses hereafter built in or near street.

198 Before beginning, in or near any street, to construct any house or building, the person intending to construct such house or building shall give to the chairman notice thereof in writing, and shall accompany such notice with a plan showing the levels at which the foundation and lowest floor of such house and building are proposed to be laid, by reference to some level ascertained under the direction of the chairman, and the intended situation and construction of the privies to be used in connection with such house or building.

Notice of new buildings, in or near streets, to be given to chairman.

199 Within fourteen days after receiving such notice, the chairman may signify his disapproval of the proposed levels or privies, and fix other levels and privies in lieu thereof, and he may require the said house to be set back or forward for the improvement of the street as he may think fit.

Chairman may signify disapproval within fourteen days.

200 If such building be begun or made without sending such notice and plan, or at any levels different from those fixed by the chairman, within the said fourteen days, or in any other respect contrary to the provisions of this Ordinance, the chairman may, if necessary, cause such building

Houses built without notice or contrary to this Ordinance may be altered by chairman.

to be altered or demolished as the case may require, and the expense thereby incurred shall be paid by the person failing to comply with the provisions aforesaid, and shall be recoverable as hereinafter provided.

If chairman fail to give instructions within fourteen days, parties may proceed without his approval.

201 If the chairman fail to signify in writing his approval or disapproval of the levels and particulars shown on such plans as aforesaid, and to fix other levels and give other directions within fourteen days after receiving such notice and plan as aforesaid, the person giving such notice may, notwithstanding anything hereinbefore contained, proceed to build the house therein referred to according to the levels and particulars shown on such plan, provided that such building be otherwise in accordance with the provisions of this Ordinance.

Sewers in streets to be covered with traps, &c.

202 All sewers and drains, whether public or private, shall be provided by the municipal council, or by any other persons to whom they severally belong, with proper traps or other coverings or means of ventilation so as to prevent stench. If the owner of any private sewer or drain, whether under his house or without the house, shall, for ten days after notice given to him by the chairman, neglect or delay to provide and apply proper traps or covering, the chairman shall provide and apply the same, and the expense incurred thereby shall be paid by the owner of such sewer or drain, and shall be recoverable as hereinafter provided.

Power of chairman to erect or affix to buildings, pipes for ventilation of sewers.

203 The chairman may erect or fix to the outside of any house or building such pipes as he may deem necessary for the proper ventilation of the public sewers, and such pipes shall be carried to a height of not less than six feet above the highest part of the house or building, and shall be erected so as not to occasion any nuisance or inconvenience to the house itself or to any house or building in the neighbourhood.

Common necessaries.

204 The chairman shall provide and maintain in proper and convenient situations, so as not to create a nuisance, common latrines and urinals, and shall cause the same to be kept in proper order, and to be daily cleansed.

Penalty for omitting to prevent child from committing nuisance.

205 Whoever, having the care or custody of any child under twelve years of age, omits to prevent such child from committing a nuisance in or by the side of any street, shall be liable to a fine not exceeding ten rupees.

Chairman may order or cause additional privies to be constructed.

206 In case the chairman shall be of opinion that any privy or privies or additional privy or privies shall be necessary to be attached to, or provided for, any house or building or land, the owner of such house or building or land shall, within fourteen days after notice in this behalf by the chairman, cause such privy or privies to be constructed in accordance with the requisition of such notice; and in case the requisition of such notice shall not have been complied with to the satisfaction of the chairman by such owner within the period aforesaid, such owner shall be liable to a

fine not exceeding twenty rupees; and the chairman shall be at liberty to cause such privy or privies to be constructed, and the expense incurred in such construction shall be payable by such owner, and shall be recoverable as hereinafter provided.

Chairman may cause persons employing large numbers of men to provide and maintain privies and urinals, &c.

207 It shall be lawful to the chairman to compel all persons employing large bodies of workmen or labourers to provide and maintain such privies and urinals as may to him seem fit, and to cause the same to be kept in proper order, and to be daily cleaned. And should such person neglect to provide and maintain such privies and urinals, or to keep the same clean and in proper order, he shall be liable to a fine not exceeding fifty rupees; and the chairman may construct and cause such privies and urinals to be kept in good order and cleaned, and the expense incurred by the chairman in respect thereof shall be paid by the person aforesaid, and shall be recoverable as hereinafter provided.

Neglecting to enclose private privy.

208 The owner or occupier of any house or building or land having a privy on his premises shall have such privy shut out by a sufficient roof and wall or fence from the view of persons passing by or residing in the neighbourhood, and it shall not be lawful to any owner or occupier to keep any privy open or with a door or trapdoor opening on to any street. Every owner or occupier who shall omit to comply with, or shall commit any breach of, any of the provisions of this section, shall be liable to a fine of five rupees a day for each day of default or breach. Provided that the chairman may, in his discretion, permit the continuance for such time as he may think fit of any such privy open or with a door or trapdoor opening on to any street where such privy already exists, and does not create a nuisance.

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If owners neglect to keep drains, &c., in good order, chairman may cause the same to be done, and charge the owners with the expense.

209 All drains, privies, and cesspools within the municipality shall be under the survey and the control of the chairman, and shall be altered, repaired, and kept in proper order at the cost and charges of the owners of the land or buildings to which the same belong, or for the use of which they are constructed or continued: and if the owner of any land or buildings to which any such drain, privy, or cesspool belongs, neglects during eight days after notice in writing for that purpose to alter, repair, and put the same in good order, in the manner required by the chairman, the chairman may cause such drain or privy or cesspool to be altered, repaired, and put in good order in the manner required; and the expense incurred by the chairman in respect thereof shall be paid by the owner, and shall be recoverable as hereinafter provided.

Penalty for persons making or altering drains, &c., contrary to the orders of the chairman.

210 If any such drain or privy or cesspool be constructed after this Ordinance comes into operation, contrary to the directions and regulations of the chairman, or contrary to the provisions of this Ordinance, or if any person without the consent of the chairman construct any new drain or privy or cesspool, or construct, rebuild, or unstop any drain or privy or cesspool which has been ordered by the chairman

to be demolished or stopped up, or not to be made, every person so doing shall be liable to a fine not exceeding fifty rupees, and the chairman may cause such amendment or alteration to be made in any such drain or privy or cesspool as he may think fit, and the expenses thereof shall be paid by the person by whom such drain or privy or cesspool was improperly constructed, rebuilt, or unstopped, and shall be recoverable from such person as hereinafter provided.

Inspection of drains and privies.

211 The chairman or any officer appointed by him for that purpose may, subject to the restrictions of this Ordinance, inspect any such drain or privy or cesspool, and for that purpose at any time may enter upon any lands or buildings with such assistants and workmen as are necessary, and cause the ground to be opened where such chairman or officer may think fit, doing as little damage as may be; and if upon such inspection it appears that the drain or privy or cesspool is not in good order and condition, or that it has been constructed after this Ordinance comes into operation contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such drain or privy or cesspool may belong, and shall be recoverable as hereinafter provided; but if such drain or privy or cesspool be found to be in proper order and condition, and not to have been constructed in violation of the provisions of this Ordinance, the chairman or officer as aforesaid shall cause the ground to be closed and made good as soon as may be, and the expenses of the opening, closing, and making good such drain or privy or cesspool shall in that case be defrayed by the municipal council.

Any person bathing or washing animals or clothes in any public place not set apart for that purpose liable to a fine not exceeding fifty rupees.
[§ *14, 26 of 1890*]

212 (1) The municipal council may set apart suitable public places for the purpose of bathing, and may specify the times at which, and the sex of the persons by whom, such places may be used, and may also set apart suitable public places for washing animals or clothes, or for any other purpose connected with the health, cleanliness, or comfort of the inhabitants of the municipality.

(2) The chairman may by public notice prohibit bathing or washing animals or clothes in any public place not so set apart, or at times or by persons other than those specified, and all other acts which may render water in public places foul or unfit for use, or may cause inconvenience or annoyance to persons using the bathing or washing places. Such notice shall be published in the English, Sinhalese, and Tamil languages in the *Government Gazette* and in two at least of the local newspapers.

(3) Any person who bathes, washes, or does any act contrary to such prohibition as aforesaid shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding fifty rupees.

Maintenance in good repair of private tanks and wells.

213 The chairman may, by a notice in writing, require the owner of, or the person having control over, any private tank, well, or other place the water of which is used for drinking, to keep and maintain the same in good repair, and to clean the same from time to time of silt, refuse, or decaying vegetation, and the chairman may also require him to protect any such tank, well, or other place from pollution by surface drainage or otherwise in such manner as the chairman may think fit.

Steps to be taken by chairman when water in private tank or well is unfit for drinking.

214 Whenever the water of any private well, tank, or reservoir used for drinking is proved to the satisfaction of the chairman to be unfit for drinking, the chairman, by a notice in writing, may require the owner or person having control thereof to desist from so using such water, or permitting others so to use it, and if after such notice the water of such well, tank, or reservoir is used by any person for drinking, the chairman may require the owner or person having control thereof to close such well, either temporarily or permanently, or to enclose or fence such tank or reservoir in such manner as the chairman may direct, so that the water thereof may not be used for drinking.

Refusal or neglect of person to comply with requisition made by chairman to owner of private tank, &c., to desist from using its water.

215 If any person on whom a requisition has been duly served under sections 213 and 214 refuses or neglects to comply with such requisition for forty-eight hours after service thereof, the chairman, by himself or his officers and workmen, may enter and do all such necessary acts in conformity with such requisition as he shall think fit; and the expense incurred thereby shall be paid by the person on whom such requisition shall have been served, and shall be recovered as a tax due to the municipal council.

Power to fill up unwholesome tanks on private premises.

216 When any private tank or low marshy ground or any waste or stagnant water being within any private enclosure appears to the chairman to be injurious to health or to be offensive to the neighbourhood, the chairman shall, by notice in writing, require the owner of the said premises to cleanse or fill up such tank or marshy ground, or to drain off or remove such stagnant water; and if the said owner shall refuse or neglect to comply with such requisition during four days from the service thereof, the chairman, or any officers and workmen appointed by him, may enter into the said premises and do all necessary acts for all or any of the purposes aforesaid, and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.

Power to drain off and cleanse stagnant pools in open places.

217 The chairman is hereby empowered from time to time, as he shall think fit, to drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure) which shall appear to him to be likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise, and the chairman, or officers and workmen appointed by him, may do all necessary acts for effecting any of the purposes aforesaid, and the expenses incurred thereby shall be paid by the owner, and shall be recoverable as hereinafter provided.

Chairman in executing works to provide roads, &c., where existing ones injured.

218 The chairman, in executing any works directed or authorized by this Ordinance to be made, shall provide and make a sufficient number of convenient ways, water-courses, drains, and channels in the place of such as may be interrupted, injured, or rendered useless by reason of

the execution of such works; and the municipal council shall make reasonable compensation to any person who suffers damage by reason of the same, and the amount of such compensation in case of dispute shall be ascertained and determined in the manner hereinafter provided.

Chairman breaking up street to restore the same with all convenient speed.

219 When the pavement or surface of any street, or when any sewer or drain shall be opened or broken up by the chairman, he shall with all convenient speed complete the work on account of which the same shall have been broken up, and fill in the ground and make good the pavement and surface and the sewer or drain so opened or broken up, and carry away the rubbish occasioned thereby, and shall in the meantime cause the place where such pavement or surface shall be so opened or broken up to be fenced and guarded, and sufficiently lighted during the night.

Hoards to be set up during repairs.

220 Every person intending to build, or take down any building, or to alter or repair the outward part of any building where any street or footway will, by means of such work, be obstructed or rendered unsafe or inconvenient, shall before beginning the same, and having first obtained a license in writing from the chairman so to do, cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street or footway, and shall continue such hoard or fence standing and in good condition, to the satisfaction of the chairman, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night; and every such person who begins to build or take down, or alter or repair, any building contrary to the provisions of this section, or who, without license, erects or sets up any hoard, scaffolding, or fence whatsoever, or who, being licensed, fails to put up such fence or hoard, shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding fifty rupees for every day after conviction during which the offence is continued; and every such person who, being licensed, fails to continue such hoard, scaffolding, or fence standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same when directed by the chairman, within a reasonable time afterwards, shall be liable to a penalty not exceeding fifty rupees for every day during which the offence is continued, after twenty-four hours' notice in writing from the chairman.

Bars to be erected across streets during repairs, and lights placed at night.

221 The chairman shall, during the construction or repair of any of the streets, sewers, or drains vested in the municipal council, take proper precaution for guarding against accident by shoring up and protecting the adjoining houses, and shall cause such bars, chains, or posts to be fixed across or in any of the streets or roads to prevent the passage of carriages, carts, or other vehicles, cattle, or horses, while such works are carried on, as to him shall seem proper; and

the chairman shall cause any sewer or drain or other works in streets, during the construction or repair thereof, to be sufficiently lighted and guarded during the night; and whoever takes down, alters, or removes any of the said bars, chains, or posts, or extinguishes any light without the authority or consent of the chairman, shall be liable to a fine not exceeding fifty rupees.

Penalty for not fencing and lighting deposits of building materials or excavation.

222 No person shall deposit any building materials or make a hole in any street without the permission of the chairman, which shall be determinable at the discretion of the chairman; and when such permission is granted to any person, he shall at his own expense cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure to the satisfaction of the chairman, and shall cause the same to be sufficiently lighted during the night; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole, or otherwise make it secure in the manner aforesaid when the permission has been withdrawn, shall be liable to a fine not exceeding fifty rupees, and shall also be liable to a further penalty not exceeding fifty rupees for every day while the offence is continued after twenty-four hours' notice in writing from the chairman.

Dangerous places near streets to be repaired or enclosed.

223 If any building, tank, well, quarry of sand, earth, stone, or rock, or place for blasting stone or rock, or hole, or other place, be, for want of sufficient repair, protection, or enclosure, in the opinion of the chairman dangerous to passengers, the chairman shall give notice in writing to the owner thereof to repair, protect, or enclose the same within twenty-four hours, so as to prevent danger therefrom, and on failure to comply, the chairman shall forthwith cause the same to be so repaired, protected, or enclosed; and the expenses of such repair, protection, or enclosure shall be paid to the chairman by such owner, and in default shall be recoverable as hereinafter provided.

To regulate pasture lands, erect pounds, and make pound regulations.

224 The municipal council may make by-laws for the due and proper care of the common pasture lands within the town, and therein specify and regulate the number and description of cattle or other animals which each inhabitant shall be allowed to keep and depasture on the said common lands, and on what terms; and may also impose fines on any person contravening such by-laws, and may establish and erect pounds, and appoint pound-masters, and make all such pound regulations as shall be necessary or expedient.

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Provided always that the said council shall not be authorized or permitted to dispose of, alienate, build upon, enclose, or cultivate any such common pasture lands, nor suffer any other person to build upon, enclose, or cultivate the same; and any such alienation by sale, gift, or otherwise, except with the sanction of the Governor in Executive Council, shall be null and void.

Chairman to abate nuisances.

225 The chairman shall take steps to remove, put down, and abate all nuisances of a public nature within the said municipality even on private premises, or which may tend either to injure the health or in any way affect the safety or the rights of the inhabitants at large, and, if need be, to proceed at law against any person committing any such nuisance for the abatement thereof, and for damages; and further the said chairman shall, and he is hereby required, to cause all streets, water-courses, drains, roads, canals, and places within the said municipality to be kept clean and free from dirt, filth, or rubbish. The chairman is also empowered to give the notice prescribed by section 2 of "The Nuisances Ordinance, 1862," to be given by the board of health, and neglect of such notice shall subject the person neglecting to the fine thereby imposed.

Public Markets.

Markets vested in municipal council.

226 The public markets in any town and the lands at present used as such in any municipality are hereby vested in the municipal council.

Municipal council may provide markets and charge rents and fees.

227 It shall be lawful to the municipal council, and they are hereby empowered, from time to time as occasion may require, to provide places within the municipality for the purpose of being used as public markets, and the municipal council may charge such rents, tolls, and fees as to them may seem fit for the use of, or right to expose goods for sale in, such markets, and for the use of shops, stalls, sheds, pens, and standings therein. All such rents, tolls, and fees shall be recoverable by the municipal council from the persons liable to pay the same, as if the amounts payable in respect thereof were taxes due under this Ordinance.

Recovery of rents and fees.

Municipal council may acquire land by purchase, lease, &c., and appropriate land vested in them to build markets on.

228 The municipal council may from time to time, if they think fit, with the sanction of the Governor in Executive Council, acquire land by purchase, lease, or otherwise, or appropriate any land vested in or belonging to them, and upon such land build and maintain such markets and such shops, stalls, sheds, pens, and other buildings or conveniences for the use of the persons frequenting such markets, and for the weighing and measuring goods sold in such markets, as they may think necessary.

By-laws.

229 The municipal council may with the like sanction make such by-laws as they may think fit for any of the following purposes:

(*a*) For regulating the control and use of such markets, and the buildings, shops, sheds, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein or in the immediate approaches thereto;

(*b*) For providing standard weights, scales, and measures, and preventing the use of false or defective weights, scales, or measures;

(*c*) For preventing the sale, or exposure for sale therein, of unwholesome meat, fish, or provisions;

(*d*) For the establishment and publication of a price current, and for prescribing the mode of sale of articles, whether by measure, weight, tale, or piece;

(*e*) For keeping such markets in a cleanly and proper state, and for removing filth and refuse therefrom.

Power to expel persons breaking regulations, and to determine lease.

230 The chairman may expel or cause to be expelled from any such market any person who, or whose servants, may be convicted of disobeying any by-law made under the last preceding section, and may prevent such person by himself or his servants further carrying on any trade or business in such market or occupying any stall, shop, or other place therein, and may determine any lease or tenure which such person may have in any such stall, shop, or other place.

Power to sell or let markets.

231 The municipal council may, with the sanction of the Governor in Executive Council, sell, or, at their own discretion, let to tenants on lease or otherwise, on such terms as they may think fit, any such market or any part thereof, and may close any such market or any part thereof.

Penalty for selling in market without permission.

232 Every person who, without the permission of the chairman, sells or exposes for sale any article within a public market, shall be liable to a fine not exceeding fifty rupees for each offence.

Private Markets.

Private markets not allowed except with license.

233 No private market shall, except with the license of the *chairman*, be established, or, if already established, be used within any municipality after the coming into operation of this Ordinance. [§ *15, 26 of 1890*]

Owner to apply for license.

Penalty for keeping open unlicensed market.

236 The owner of every such market shall, before establishing or using the same, apply to the chairman for a license. Every person who without such license establishes or uses such market, shall be liable to a fine not exceeding twenty rupees, and shall also be liable to a further fine not exceeding five rupees for every day during which he keeps open or uses such unlicensed market after conviction.

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Provided, however, that in the case of any private market heretofore licensed under any municipal by-law, the owner shall not be bound to apply for a new license until the license already issued to and held by him shall have expired, *anything in section 233 to the contrary notwithstanding.* [§ *17, 26 of 1890*]

Application for license to be annually made.

Chairman may grant or refuse license.

237 Every owner of a *private* market shall, in the month of January in each succeeding year, apply to the chairman for a license. It shall be in the discretion of the chairman, with the concurrence of the standing committee, under such conditions as he shall think fit, to grant or refuse such license: and he shall refuse it if the *private* market is by position, construction, or arrangement unfit in his opinion for the purpose of a *private* market, and calculated to be a nuisance to the neighbourhood. The [§ *20, 26 of 1890*]

license may, with the sanction of the standing committee, be suspended or withheld until any or all of such works as may be ordered by the chairman, or any or all of the terms of the license, be carried out.

Proviso.

Provided that no such market shall be permanently suppressed without the sanction of the municipal council.

Penalty for keeping existing market open after refusal to grant license.

238 Every person who, after the refusal, withholding, or suspension of a license as provided in the last preceding section, keeps open or uses such market, shall be punished with fine which may amount to twenty rupees, and shall be also liable to a further fine of five rupees for every day after conviction during which he keeps open or uses such market.

Penalty for selling in such market.
[§ *19, 26 of 1890*]

239 Every person who sells or exposes for sale in *any unlicensed private market* any animal or article intended for human food, shall be punished with fine which may amount to twenty rupees, and with a further fine of five rupees for every day after conviction during which the offence is continued.

Markets to be properly drained, &c.
[§ *20, 26 of 1890*]

240 Every owner, lessee, farmer, or occupier of any *private* market within any municipality shall—

(*a*) Construct such drains and cesspits therein as the chairman directs;

(*b*) Cause such market to be roofed and paved with such materials and in such manner, and provided with such latrines and urinals of such description and in such position and number, as the chairman directs;

(*c*) Provide for such supply of water to such market as the chairman directs;

(*d*) Make such alterations in the stalls, passages, shops, doors, or other parts of the said market as the chairman directs.

Penalty for default.

241 If such owner, lessee, farmer, or occupier, after notice in writing given to him by the chairman directing him to carry out, within a period to be specified in the notice, any of the measures provided in the last preceding paragraph, fails to carry out such measure within the period so specified and in the manner directed in the notice, the chairman may, with the sanction of the standing committee, suspend, withhold, or refuse the license until the works mentioned in the notice have been completed; and any person opening or keeping open any such market after such withholding, suspension, or refusal, shall be liable to a fine not exceeding fifty rupees for every day during which such market is so opened or kept open.

Power to close market.
[§ *20, 26 of 1890*]

242. The chairman may by himself, or by any officer thereunto deputed by him, close any *private* market the license for which has been refused, withheld, or suspended, or which has been suppressed by the municipal council.

243 Any owner, lessee, farmer, occupier, agent, or manager in charge of any *private* market, or of any shop, stall, shed, or other place therein, who keeps the same so that it is a nuisance, or who does not cause anything that is a nuisance to be at once removed to a place to be notified by the chairman, or who obstructs any person appointed by the chairman for that purpose in entering and inspecting any such premises at any reasonable time, shall be liable to a fine not exceeding fifty rupees for each offence.

Penalty for not keeping market properly, or for not abating nuisance, or for obstructing.

[§ *20, 26 of 1890*]

244 The chairman may from time to time by notification, with the sanction of the standing committee, prohibit the sale, or exposure for sale, of any articles in or upon any specified public street, or part of such street, and may, in like manner, cancel, suspend, or modify such prohibition. Whoever after such notification sells, or exposes for sale, any articles in any such street against the terms of such notification, shall be liable to a fine not exceeding twenty rupees.

Chairman may prohibit sale in street.

245 The chairman, or any person appointed by him in writing for that purpose, may at all reasonable times enter into and inspect any place used for the sale, either wholesale or by retail, or for the storing of articles of human food or drink intended for sale or wherein such articles may be detained, and may examine any such articles which are therein. If it appears to the chairman or such person that any such articles are unfit for human food or drink, he may detain the same. If the magistrate or municipal magistrate finds that such articles are unfit for human food or drink, he shall order the same to be destroyed, or so disposed of as to prevent their being exposed for sale or used for food or drink. The owner thereof or the person in whose possession the same is found, shall be liable to be convicted of an offence under section 266 of the Ceylon Penal Code. If such magistrate finds that the articles so detained were fit for human food or drink, he may make an order upon the municipal council to return such articles, or such portion thereof as may be in good condition, to the owner, or to the person in whose possession such articles were found, and to pay to him such reasonable amount as such magistrate considers will compensate such owner or person for any loss or depreciation that may have been caused by such detention.

Chairman may enter and inspect places of sale or store and examine articles of human food or drink.

Such articles if unwholesome may be detained.

Magistrate may order the same to be destroyed.

Liability to conviction.

Magistrate may return articles if in good condition, and order compensation for loss, &c.

Prevention of Infectious Diseases.

246 Every medical practitioner who treats or becomes cognizant of the existence of any epidemic, endemic, or dangerous infectious disease in any private or public dwelling in the municipality other than a public hospital, shall be bound to give information of the same within twenty-four hours to the officer in charge of the nearest police station, and such officer shall forthwith communicate the same to the chairman.

Information to be given of existence of dangerous infectious disease.

247 The chairman or any health officer specially authorized by him in writing in this behalf shall have power of entry at any time in any dwelling place in which any

Chairman or health officer authorized thereto in writing to have power of entry

for purpose of preventing spread of disease.

epidemic, endemic, or dangerous infectious disease is reputed or suspected to exist, for the purpose of preventing the spread of the same.

Provision of carriages for conveyance of patients.

248 The chairman, with the consent of the standing committee, shall provide and maintain a suitable carriage or carriages for the free conveyance of persons suffering from any dangerous infectious disease.

Chairman may order removal of patients to hospital

249 When a hospital or place for the reception of persons suffering from any dangerous infectious disease is provided within the limits of the municipality, or within a distance of two miles therefrom, the chairman may, on a certificate signed by a duly qualified medical practitioner, direct the removal to such hospital or place of any person suffering from a dangerous infectious disease, who is, in the opinion of such medical practitioner, without proper lodging or accommodation, or who is lodged in a room occupied by more than one family.

Disinfection of buildings, &c.

250 If the chairman is of opinion that the cleansing or disinfecting of a building, or of any part of a building, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, he may, by notice in writing, require the owner or occupier to cleanse or disinfect the same, and if such owner or occupier fails within the time specified in such notice to comply with the same, he shall be liable to a fine not exceeding ten rupees, and not exceeding five rupees for every day of continuing default; and the chairman shall cause the building, or part of the building, or articles, to be cleansed or disinfected, and shall recover the expenses from the owner or occupier in the manner hereinafter provided.

Proviso.

Provided always that when, in the opinion of the chairman, the owner or occupier is from poverty or otherwise unable effectually to carry out the said requirements, the chairman or other officer appointed by him may cleanse or disinfect the building or buildings, or part of the same, and any articles therein likely to retain infection, at the expense of the municipal fund.

Place of disinfection may be provided

Also places for washing.

Infected articles may be destroyed.

251 It shall be lawful to the chairman, with the consent of the standing committee, to provide a proper place or places, with all necessary apparatus and attendance, for the disinfection of clothing, bedding, or other articles which have become infected, and in his discretion to cause articles brought for disinfection to be disinfected free of charge. It shall be lawful to the chairman from time to time to notify places at which articles of clothing or bedding, or other articles which have been exposed to infection from any dangerous infectious disease, may be washed. The chairman or other person appointed by him may direct the destruction of bedding, clothing, or other articles likely to retain infection, and the chairman may in his discretion give compensation for the articles destroyed.

252 Any person who, without previous disinfection of the same to the satisfaction of the health officer, gives, lends, sells, transmits, or otherwise disposes of any article or thing which he has reason to know has been exposed to infection, shall be liable to a penalty not exceeding fifty rupees.

Penalty for disposal of infected articles.

Provided that nothing in this section shall be deemed to apply to a person who transmits with proper precautions any article or thing for the purpose of having the same disinfected.

Proviso.

253 Any person suffering from a dangerous infectious disease who, without proper precaution against spreading such disease, causes himself to be conveyed in a public conveyance, and any person in charge of or accompanying a patient so conveyed, and any person knowing himself to be suffering from any dangerous infectious disease who enters a public conveyance without previously notifying to the owner or driver that he is so suffering, shall be liable to a penalty not exceeding fifty rupees, and to an additional fine of such amount as the magistrate or municipal magistrate shall deem sufficient to cover the loss and costs which the owner or driver must incur for the purpose of disinfecting such conveyance. The amount of any additional fine so imposed shall be awarded by the magistrate or municipal magistrate, subject to the provisions of the Criminal Procedure Code, to the owner or driver of the said conveyance. No owner or driver of a public conveyance shall be required to convey any person suffering as aforesaid without payment or tender of a sum sufficient to cover such loss and costs as aforesaid, anything in any Ordinance relating to public conveyances for the time being in force to the contrary notwithstanding; and such conveyance shall be forthwith disinfected by the officer in charge of the hospital to which the sick person has been removed.

Penalty for exposure of infected persons.

Penalty if patient enters a public conveyance without notifying that he is suffering from infectious

No owner or driver of a public conveyance required to convey such person.

254 Any person knowingly letting a house or other building, or part of a house or building, in which any person has been suffering from a dangerous infectious disease, without having such house or other building or part thereof, and all articles therein liable to retain infection disinfected to the satisfaction of a duly qualified medical practitioner, as testified by such officer's certificate, shall be liable to a penalty not exceeding one hundred rupees. For the purpose of this section a hotel or lodging house keeper shall be deemed to let part of his house to any person admitted as a guest into his hotel or lodging house.

Penalty for letting infected

Regulation of Offensive and Dangerous Trades.

255 No place shall be used as a slaughter-house within the municipality unless a license in writing for the use thereof as a slaughter-house has been obtained from the chairman, who is hereby empowered, at his discretion, from time to time to grant such license, and such license to suspend or revoke, as to him shall seem necessary: and whoever, without such license, uses a slaughter-house at

Chairman may license slaughter-houses.

any place within the municipality, shall be punished with a fine not exceeding two hundred rupees, and with a further penalty not exceeding fifty rupees for every day after notice given by the chairman to discontinue the same.

Council to provide places for slaughter-houses.

256 The municipal council may, from time to time, if they shall think fit, with the sanction of the Governor in Executive Council, provide places for the purpose of being used as slaughter-houses, and make by-laws for and with respect to the management and charges for the use of such places.

Slaughter-houses to be properly drained.

257 Every owner, lessee, occupier, or farmer of any slaughter-house within the municipality shall cause such drains to be made therein as shall be considered sufficient by the chairman, and, if required so to do by the chairman, shall cause all the floors and drains to be paved with stone or cement or other suitable material, and shall also cause a supply of water to be provided, sufficient for keeping such slaughter-house in a clean and wholesome state; and if such owner, lessee, occupier, or farmer, after notice in writing given to him by the chairman that such slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within a reasonable time, make default, he shall be liable to a penalty not exceeding fifty rupees for every day during which such default is continued.

Penalty for using slaughter-houses during suspension or revocation of license.

258 Whoever, during the period for which any such license is suspended, or after the same is revoked as aforesaid, slaughters cattle, or allows cattle to be slaughtered in the slaughter-house to which such license relates, and whoever during the period that the slaughtering of cattle in any such licensed slaughter-house is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters cattle, or allows cattle to be slaughtered in any such licensed slaughter-house, shall be liable to a penalty not exceeding five hundred rupees, and to a further penalty not exceeding one hundred rupees for every day after notice given by the chairman to discontinue the same.

Offensive and dangerous trades existing within certain limits to be registered.

259 No place shall, after three months from the time this Ordinance comes into operation, be used within the municipality for any of the following purposes, namely, for boiling offal or blood, or as a soap-house, oil-boiling-house, dyeing-house, tannery, brick, pottery, or lime kiln, sago manufactory, gunpowder manufactory, manufactory of fireworks, or other manufactory or place of business from which either offensive or unwholesome smells arise, or used for any purposes which are calculated to be dangerous to life, or used as a yard, or depôt for hay, straw, wood, coal, cotton, bones, or inflammable oil, except under a license from the chairman, who is hereby empowered, at his discretion, from time to time to grant such licenses and to impose such terms therein as to him shall appear expedient; and no license for any of the said purposes shall be given by the government agent or assistant government agent under section 4

Penalty for establishing such trades without license.

of "The Nuisances Ordinance, 1862," in any town or place which is created a municipality. Whoever, without a license, uses any such place for any of the said purposes, shall be liable to a penalty not exceeding five hundred rupees, and a further penalty not exceeding fifty rupees for every day after the conviction for such offence during which the said offence is continued.

Council may make by-laws for the management of such trades and places.

260 The municipal council may make by-laws for the inspection of every place within the municipality used for any of the purposes mentioned in the last preceding section, and for the management and conduct of such business, in such manner as they may think necessary and proper, in order to prevent or diminish the noxious, injurious, offensive, or dangerous effect thereof.

Suspension or revocation of license.

261 It shall be lawful to the chairman, with the sanction of the standing committee, to suspend or revoke such license if it shall appear necessary to him to do so. Provided that, if such license be suspended or revoked, except on the ground of the owner having violated the license or any of the terms thereof, the municipal council shall be liable to make compensation to the owner for the loss to which such suspension or revocation shall subject him. Whoever uses such place after notice that his license has been suspended or revoked, or permits it so to be used, shall be liable to a penalty not exceeding two hundred rupees for every day after such notice during which it shall be so used.

Police.

Expenses of police.

262 The annual expenses of the police force of the municipality, exclusive of the salaries of the Inspector-General of Police, the provincial superintendents, and the cost of barracks, hospitals, arms, and medical attendance, shall be paid out of the municipal fund. Provided that it shall be lawful to the Governor in Executive Council to fix the numerical strength and cost of such force, and without his sanction no reduction therefrom shall be made by the municipal council.

Proviso.

Loans.

The council may borrow on security of rates and taxes.

263 It shall be lawful to the municipal council, with the sanction of the Governor in Executive Council, to borrow such sum or sums of money as may be necessary for carrying out any work of a permanent character undertaken under the provisions of this Ordinance. Every such loan shall be subject to such rate of interest and to such conditions for the repayment thereof as the Governor in Executive Council may sanction. And for the purpose of securing the repayment of the sum or sums so borrowed, and the interest accruing thereon, the municipal council may mortgage and assign over to the person by or on whose behalf such sum or sums or any part thereof may be lent, the rates and taxes imposed and levied under this Ordinance, or any portion thereof. Provided that any loans raised under the authority

Proviso

of this Ordinance shall not at any time exceed in the aggregate ten times the fair average annual income received by the municipal council from all municipal rates and taxes for the preceding five years.

Mortgages to be by deed.

264 Every mortgage of rates or taxes authorized to be made under the provisions of this Ordinance shall be by deed, free from stamp duty, in which the consideration shall be truly stated, and every such deed shall be under the common seal of the municipal council and according to the form in the schedule G to this Ordinance annexed, or to the like effect.

When and how council may pay off securities.

265 If the municipal council can at any time borrow or take up any sum of money at a lower rate of interest than any securities given by them and then being in force shall bear, they may borrow such sum at such lower rate as aforesaid in order to pay off and discharge the securities bearing such higher rate of interest, and may charge the rates and taxes which they are authorized to mortgage under this Ordinance or any part thereof with payment of such sum and such lower rate of interest, in such manner and subject to such regulations as are hereinbefore contained.

Sinking fund for payment of debts.

[§ *21, 26 of 1890*]

266 In order to discharge the principal money borrowed as aforesaid on security of any rates or taxes, the municipal council shall every year appropriate and set apart out of such rates and taxes respectively a sum equal to at least *one-fiftieth* part of the sums so borrowed respectively as a sinking fund, to be applied in paying off the respective principal moneys so borrowed, and shall from time to time cause such sinking fund to be invested in the purchase of Imperial, Indian, or Colonial Government securities, to be approved by the Governor in Executive Council, and to be increased by accumulation in the way of compound interest or otherwise, and which interest shall, when it amounts to a sufficient sum, in like manner be invested until the principal sum and interest respectively shall be of sufficient amount to pay off the principal debts respectively to which such sinking fund shall be applicable, or some part thereof which the municipal council shall think ought then to be paid off, when the same shall be so applied in paying off the said principal debts or part thereof in manner hereinafter mentioned.

Order of payment of mortgages may in certain cases be decided by lot.

267 Whenever the municipal council shall be enabled to pay off one or more of the mortgages which shall be then payable, and shall not be able to pay off the whole of the same class, they shall decide the order of payment by lot among the class to which such one or more of the mortgages belong, and shall cause a notice signed by the chairman to be given to the persons entitled to the money to be paid off pursuant to such lot, and such notice shall express the principal sum proposed to be paid off, and that the same will be paid together with the interest due thereon at a place to be specified, at the expiration of six months from the date of giving such notice.

268 Nothing in this Ordinance contained shall be deemed to affect the right of the Crown to demand and receive every several sum or instalment of money lent under the provisions of Ordinances No. 13 of 1874, No. 1 of 1879, No. 18 of 1884, and No. 29 of 1884, to either of the municipalities of Galle and Kandy for the construction of waterworks, but the said several sums or instalments of money shall continue to be charged on the rates and taxes, rents, and all other the income and property of the municipality to which the same were lent as aforesaid.

Loans by Government to Galle and Kandy municipalities for waterworks to continue chargeable on rates, taxes, rents, and other property of the said municipalities.

General Provisions for carrying out the purposes of this Ordinance.

269 When any notice is required by this Ordinance to be given to the owner or occupier of any house, building, or land, such notice addressed to the owner or occupier, as the case may require, may be served on the occupier of such house, building, or land, or left with some adult member or servant of his family, or if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such house, building, or land, and it shall not be necessary in any such notice to name the occupier or the owner. Provided always that when the owner and his residence are known to the chairman, it shall be his duty, if such owner be residing within the municipality, to cause every notice required to be given to the owner, and if he be not resident within the town, the chairman shall send every such notice by the post addressed to his residence.

Service of notice on owners and occupiers of buildings and lands.

Proviso.

270 Whenever under the provisions of this Ordinance any work is required to be executed by the owner or occupier of any house, building, or land, and default is made in the execution of such work, the chairman, whether any penalty is or is not provided for such default, may cause such work to be executed, and the expenses thereby incurred shall be paid by the person by whom such work ought to have been executed, and shall be recoverable as hereinafter provided.

Chairman, in default of owner or occupier, may execute works and recover expenses.

271 If the defaulter be the owner of the house, building, or land, the chairman may, by way of additional remedy, whether an action or proceeding has been brought or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or at any time thereafter, occupies the house, building, or land under such owner; and in default of payment thereof by such occupier on demand, the same shall be levied by distress of the goods and chattels of such occupier; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from such occupier in respect of any such expenses, and to retain possession until such expenses shall be fully reimbursed to him.

Power to levy charges on occupier, who may deduct the same from the rent.

Occupier not to be liable to more than the amount of rent due.

272 No occupier of any house, building, or land shall be liable to pay more money in respect of any expenses charged by this Ordinance on the owner thereof than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord has accrued and become payable by him, unless he neglects or refuses, upon application made to him for that purpose by the chairman, truly to disclose the amount of his rent, and the address of the person to whom such rent is payable ; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier. Provided further that nothing herein contained shall be taken to affect any special contract made between any such person, owner, or occupier respecting the payment of the expense of any such works as aforesaid.

Proviso.

Occupier, in default of owner, may execute works and deduct expenses from the rent.

273 Whenever default is made by the owner of any house, building, or land in the execution of any work required to be executed by him, the occupier of such house, building, or land may, with the approval of the chairman, cause such work to be executed, and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner. The owner shall not be entitled to eject the occupier until such expense shall have been fully paid or deducted as aforesaid.

Proceedings if an occupier opposes the execution of the Ordinance.

274 If the occupier of any house, building, or land prevent the owner thereof from carrying into effect, in respect of such house, building, or land, any of the provisions of this Ordinance, after notice of his intention so to do has been given by the owner to such occupier, a magistrate or municipal magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Ordinance, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order, and if, after the expiration of eight days from the date of the order, such occupier continues to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a penalty not exceeding fifty rupees, and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Remedy if neither the owner nor occupier be able to pay.

275 If neither the owner nor the occupier be able to pay the expenses incurred by the chairman, the same shall be a first charge upon the house, building, or land in respect of which the expenses were incurred, and shall be recoverable as such by the municipal council.

Right of entry in houses.

276 Whenever under the provisions of this Ordinance the municipal council or chairman, or others acting under the orders or authority of such council or chairman, or having themselves authority under this Ordinance, shall have occasion to enter into any house for purposes of inspection or for any other purpose, they shall be empowered to do so; and every person wilfully resisting or obstructing such right of entry shall be liable to a fine not exceeding fifty rupees.

Chairman may direct prosecution.

277 The chairman may direct any prosecution for any nuisance whatsoever, and may order proceedings to be taken for the recovery of any fines and penalties, and for the punishment of any persons offending against the provisions of this Ordinance, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund. Provided that any inhabitant of a place may complain of the existence of a nuisance to the chairman, who shall then inquire into the complaint so made, and may make order for abating or remedying the same. Provided that nothing herein contained shall be held to preclude any inhabitant from proceeding against the municipal council by mandamus or other proceeding to compel them to put the provisions of the Ordinance in force for abating or remedying a nuisance or in any other respect, or to restrain them from an undue or illegal exercise of authority.

Proviso.

Proviso.

No action to be instituted against council until after one month's notice or three months after cause of action.

278 No action shall be instituted against the municipal council, or any councillor or chairman, or any of the officers of the council, or any person acting under their or his direction, for anything done or intended to be done under the provisions of this Ordinance until the expiration of one month next after notice in writing shall have been given to the defendant, stating with reasonable certainty the cause of such action, and the name and the place of abode of the intended plaintiff and of his attorney or agent in the cause; and upon the trial of any such action the plaintiff shall not be permitted to go into evidence of any cause of action, except such as is stated in the notice so delivered; and unless such notice be proved, the court shall find for the defendant, and every such action shall be commenced within three months next after the accrual of the cause of action and not afterwards; and if any person to whom such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought, and the defendant shall be entitled to be paid his costs by the plaintiff; and if no such tender shall have been made, it shall be lawful to the defendant in such action, by leave of the court where such action shall be pending, at any time before issue framed, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Council may make compensation out of municipal fund.

279 The municipal council may make compensation out of the municipal fund to all persons sustaining any damage by reason of the exercise of any of the powers vested in the council, their officers, or servants, under and by virtue of this Ordinance.

Fees for certain licenses.

280 When any license is granted by the municipal council or chairman under the provisions of this Ordinance authorizing the use of any place for any of the purposes herein described, and when permission is given by the municipal council or chairman for making any temporary erection or for putting up any projection, the council may charge a fee for such license or permission, and the rates of the fees to be so charged shall be, from time to time, determined by the municipal council, with the sanction of the Governor in Executive Council. Provided that no such fee shall exceed the sum of fifty rupees, and the fees shall all be taken to the credit of the municipal fund. When permission or license is given for the temporary occupation of any ground belonging to the municipal council the council may charge rent for such ground according to the time the occupation may continue, at such rates as may from time to time be fixed by them.

Proviso.

Compensation, damages, and costs to be determined by the magistrate.

281 Except as herein otherwise provided, in all cases when compensation, damages, costs, or expenses are by this Ordinance directed to be paid, the amount, and, if necessary, the apportionment of the same in case of dispute, shall be summarily ascertained and determined by the magistrate or municipal magistrate.

Recovery of

282 If the amount of compensation, damages, costs, or expenses be not paid by the person liable to pay the same within seven days after demand, such amount may be reported to such magistrate, and recovered in the same way as if it were a fine imposed by such magistrate.

No person liable to fine or penalty unless complaint be made within three months after the offence is committed.

283 No person shall be liable to any fine or penalty under this Ordinance for any offence made cognizable before a magistrate or municipal magistrate, unless the complaint respecting such offence shall have been made within three months next after the commission of such offence.

Damage to property of municipality to be made good in addition to penalty.

284 If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Ordinance, any damage to the property of the municipal council shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty, and the amount of such damage shall in case of dispute be determined by the court by which the party incurring such penalty shall have been convicted, and the amount of such damage shall be recovered as if it were a fine imposed by the court.

Prosecution before magistrate. Recovery of fines and penalties.

285 Every prosecution under this Ordinance may be instituted before a magistrate or municipal magistrate; and every fine imposed under this Ordinance or any by-law made in pursuance thereof may be recovered by a summary

proceeding before a magistrate or municipal magistrate, upon complaint made by or on behalf of the chairman; and it shall be lawful to such magistrate to impose the full fine or penalty herein or in any by-law provided, notwithstanding the aggregate amount of such fines or penalties may exceed the sum which it is competent for him in the exercise of his summary jurisdiction to award.

Penalty leviable by distress.

286 In default of payment of such fine, together with such costs as may be awarded, the same may be levied under the warrant of a magistrate or municipal magistrate with all such powers of distress or sale as are vested in him by any law in force.

Magistrate may imprison for default.

287 In case of non-payment of such fine and costs, such magistrate, if it shall appear to him that no sufficient distress can be had within the municipality wherewith to levy such fine and costs, may refrain from issuing such warrant of distress, and in such case, or if such warrant shall have been issued, and upon the return thereof such insufficiency as aforesaid shall be made to appear to such magistrate, he may sentence the offender to undergo either simple or rigorous imprisonment for any term not exceeding three months.

How fines are to be applied.

288 The magistrate by whom any fine is imposed by virtue of this Ordinance may award any portion, not being more than one-half thereof, to the informer, and shall order the remainder, or, if he make no award to the informer, the whole of such fine to be paid to the municipal council, to be by them applied to the purposes of this Ordinance.

Recovery of expenses on account of improvement to private property.

289 When the municipal council shall have incurred any expense in executing any of the works which under this Ordinance the owners of any houses, buildings, or lands are required to execute, the municipal council may either recover the amount of such expenses in the manner hereinbefore provided, or, if they think fit, may take engagements from the said owners for the payment by instalments of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of nine per centum per annum, within a period not exceeding five years, and such sums when due may be recovered by the same process by which rates may be recovered under this Ordinance.

Acts and notices may be done and given by any officer authorized thereunto.

290 All acts, receipts, and notices which the municipal council or chairman are or is empowered to do or give by this or any other Ordinance, may be done and given by any municipal officer or officers, he or they being authorized thereunto by the council or by the chairman.

SCHEDULE A.

No. and Year.	Title	Extent of Repeal.
17 of 1865	The Municipal Councils' Ordinance	The whole Ordinance
11 of 1872	An Ordinance to empower Municipal Councils to increase the Tax on Carts and Hackeries, and to impose a Tax on Dogs	The whole Ordinance
20 of 1873	An Ordinance relating to the Magisterial Work of Municipal Councils	The whole Ordinance
3 of 1875	An Ordinance to amend the Ordinances Nos. 16 and 17 of 1865 in respect of the Assessment of certain Rates	Section 1
13 of 1877	An Ordinance to prevent the pollution of Streams feeding the Reservoir of the Kandy Municipal Waterworks	The whole Ordinance
12 of 1878	An Ordinance to declare the legality of certain payments made by the Municipal Council of Colombo out of the rates levied under the 53rd section of "The Municipal Councils' Ordinance, 1865," and to make further provision for the future application of such rates	The whole Ordinance
16 of 1881	An Ordinance to amend "The Municipal Councils' Ordinance, 1865," and for other purposes	The whole Ordinance, excepting section 9 and schedule A, so far as they are not inconsistent with this Ordinance
3 of 1883	The Criminal Procedure Code, 1883	The last proviso to section 9
4 of 1883	The Municipal Councils' Amendment Ordinance, 1883	The whole Ordinance

SCHEDULE B.

Form of Oath of Allegiance.

I, ———, do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria.

Form of Oath of Office.

I, ———, do sincerely promise and swear that I will faithfully and diligently and impartially execute to the utmost of my abilities the several duties of a Municipal Magistrate within the Municipality of ———,

So help me GOD.

SCHEDULE C.

	Rs.	c.
For every carriage of whatever description other than a cart, hackery, or jinricksha	5	0
For every cart or hackery of whatever description ...	4	0
For every jinricksha	2	50
For every horse, pony, or mule	2	50
For every bullock or ass	1	0

Children's carriages, the wheels of which do not exceed 24 inches in diameter, are exempted.

SCHEDULE D.

Form of Notice of Assessment.

Municipality of ———.

No. —— Municipal Council Office,

To ———. ———, 18 —.

Take notice that by virtue of "The Municipal Councils' Ordinance, 1887," the Municipal Council have ordered you to be assessed in respect of the under-mentioned property at the sums hereunder set forth :—

Property assessed.	Annual value as assessed.	Amount of Rate payable, and times of Payment in all for the year.
		On the —— day ———, 18 —, Rs. —— On the —— day ———, 18 —, Rs. —— On the —— day ———, 18 —, Rs. —— On the —— day ———, 18 —, Rs. —— *or as the case may be.*

Date of Service .

——— day of ———.

You are hereby required to pay the amount of the above rate (*or* rates) into the office of the Treasurer of the Municipality, in the proportions and at the times shown above ; in failure whereof a Warrant will be issued by the Municipal Council for the recovery of the same with costs.

SCHEDULE E.

Form of Warrant of Distress Against Defaulters.

To ——— and his Assistants.

Whereas the persons named in the schedule under-written have been rated by the Municipal Council (*or* been taxed under the ——— section of "The Municipal Councils' Ordinance, 1887," *as the case may be*) at the sums opposite their respective names : and whereas the said

persons have made default in the payment of the said several sums to the chairman of the municipality, and the said sums are still due and owing, although notice demanding payment of the same was served on the said persons: These are therefore to order you forthwith to seize the property of the said persons (*or* the movable property of any person whomsoever which you may find in or upon the premises in the said schedule mentioned); and if within the space of *eight* clear days next after the said seizures respectively the said several sums set opposite to their respective names, together with the costs leviable under section 150 of the said Ordinance, shall not be paid, then to sell the property seized, by public auction, and the overplus (if any), after payments of the rate due (*or* tax, *as the case may be*) and costs, to restore to the owner or any joint owner of the property so sold; and that you do certify to me on or before the ——— day of ——— what you shall have done by virtue of this warrant.

[§ 20, 26 of 1890]

Schedule

Names of Defaulters.	Description of Properties.	Situation of Properties.	Amount of Rate or Tax.	Total.

Given under my hand at ———, this ——— day of ———, 18—.

A. B.,
Chairman.

[The form and schedule to be varied as may be necessary in the case of tax.]

SCHEDULE F.

Certificate of Sale.

Whereas ———, of ———, was rated (*or* taxed, *as the case may be*) under "The Municipal Councils' Ordinance, 1887," and became liable to the Municipal Council of ——— in the sum of ——— rupees, inclusive of costs, and made default in the payment thereof: And whereas warrant of distress was issued in conformity with the said Ordinance, and the property of the said ———, to wit (*here describe the property*), was sold on the ——— day of ———, and the same was purchased by ——— for ——— rupees, which sum has been duly paid by the said ———:

Now know ye that I, ———, the chairman of the said municipal council, by virtue of the powers in me vested by the said Ordinance, do hereby certify that such sale and purchase have duly taken place, and that the property above described is and shall henceforward be vested free from all encumbrances in the said ———, his heirs, executors, administrators, and assigns for ever.

Given under my hand at ———, this ——— day of ——— 18—.

A. B.,
Chairman.

SCHEDULE G.

Whereas the sum of ——— rupees was due to the Municipal Council of ———, by ———, of ———, for and on account of (*here describe rate or tax*), and a further sum of ——— rupees was likewise due for costs and charges, which said sums have not been paid by the said ——— :

And whereas the land hereinafter described, belonging to the said ———, was seized and sold in conformity with the provisions of Ordinance No 7 of 1887, and the same was purchased on the ——— day of ———, for and on behalf of the said Municipal Council in part satisfaction (*or* full, *as the case may be*) of the sum of ——— rupees so due as aforesaid, and ——— rupees for costs and charges :

Now know Ye that I, ——— (*the Chairman of the said Municipal Council*), by virtue and in exercise of the power vested in me in this behalf by the Ordinance No. 7 of 1887, do hereby certify that the following property, to wit (*here describe the property*), has been sold to and purchased by the said ——— for and on behalf of the said Municipal Council for the sum of ——— rupees, which said sum has been duly credited to the said Council, and that the said premises are and shall henceforward be vested in the said Council free of all incumbrances.

Given under my hand at ———, this ——— day of ———, 18 —.]

A. B.,
Chairman.

SCHEDULE H.

Form of Mortgage.

No. ——.

By virtue of "The Municipal Councils' Ordinance, 1887," the Municipal Council of ———, in consideration of the sum of ——— rupees paid to them to the credit of the fund of the said Council by *A. B.*, of ———, for the purposes of the said Ordinance, grant and assign unto the said *A. B.*, his heirs, executors, administrators, and assigns such portion of the rates and taxes arising or accruing by virtue of the said Ordinance from (*here describe the rates or taxes proposed to be mortgaged*) as the said sum of ——— rupees doth or shall bear to the whole sum which is or shall be borrowed upon the credit of the said rates and taxes, to hold to the said *A. B.*, his heirs, executors, administrators, and assigns from this day until the said sum of ——— rupees, with interest at ——— per cent. per annum for the same, shall be fully paid and satisfied (the principal sum to be repaid at the end of ——— years from the date hereof, and in the meantime interest thereon to be payable half-yearly *in case any period be agreed upon for that purpose*).

Given at ———, this ——— day of ———, 18 —.

A. B.,
Chairman.

26th January, 1887.

No. 9 of 1887.

An Ordinance to amend "The Local Board of Health and Improvement Ordinance, 1876."

Preamble.

WHEREAS it is expedient to amend, in the particulars hereinafter mentioned, "The Local Board of Health and Improvement Ordinance, 1876:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

To be read as one with Ordinance No. 7 of 1876.

1 This Ordinance and "The Local Board of Health and Improvement Ordinance, 1876," herein referred to as the principal Ordinance, shall be construed and read as one Ordinance.

Local boards may be established by Proclamation in towns not mentioned in schedule to Ordinance No. 7 of 1876.

2 It shall be lawful for the Governor, with the advice of the Executive Council, by Proclamation to be for that purpose published in the *Government Gazette*, to bring any town or towns, whether mentioned in the schedule to the principal Ordinance or not, under the operation of the said Ordinance, and to define the limits of such town or towns, respectively, for the purposes of the said Ordinance, and such Proclamation to amend, alter, or revoke as and whenever the Governor shall, with the like advice, determine.

Repeal of section 30 of Ordinance No. 7 of 1876, and substitution therefor of new enactment.

3 From and after the coming into operation of this Ordinance, section 30 of the principal Ordinance shall be repealed, and in lieu thereof the following enactment shall have effect:

From and after the day on which this Ordinance comes into force in any town, it shall be lawful for any board, acting under the authority of this Ordinance, to impose and enforce an annual tax payable in six days' labour, or in money not exceeding two rupees and fifty cents in commutation of such labour, upon all persons residing within the limits of the town who would have been liable under the provisions of the Ordinance No. 10 of 1861 to the performance of labour for the maintenance of the roads or other public means of communication by land or by water, if the principal Ordinance had not been passed.

Repeal of sub-section 15 of section 35 of Ordinance No. 7 of 1876.

Board to make by-laws.

4 From and after the coming into operation of this Ordinance, sub-section 15 of section 35 of the principal Ordinance, and all by-laws heretofore made thereunder for the calling out and compelling the performance of labour and payment of commutation, shall be repealed; and it shall be lawful for any board to make by-laws for—

(*a*) Determining the amount to be paid in commutation of the labour due under section 3 of this Ordinance, and for enforcing the recovery of such commutation;

(*b*) Calling out and compelling the performance of such labour;

(*c*) Enforcing in case of default the performance of increased or double labour, or the payment of increased or double commutation, and costs; and

(*d*) Recovering all other taxes payable under the principal Ordinance.

Provided that such increased or double labour as aforesaid shall not exceed in the aggregate twelve days' labour, and such increased or double commutation in lieu of the same, exclusive of costs, shall not exceed five rupees from any person in one year.

Provided further that until such by-laws are made by any board under sub-sections (*a*), (*b*), and (*c*) of this section, the provisions of the Ordinance No. 10 of 1861 and of the Ordinance No. 31 of 1884 shall, so far as the same may be made applicable, be acted upon and deemed of force as if the same were inserted herein, and that all the powers and authorities vested under the said Ordinances in the chairman of any district or provincial road committee shall, so far as respects any town, be vested in and exercised by the chairman of the board of such town.

Past operation of repealed enactments saved.

5 The repeal by this Ordinance of the enactments of the principal Ordinance and of the by-laws aforesaid shall not affect—

(*a*) The past operation of the said enactments or by-laws, nor anything duly done or suffered thereunder;

(*b*) Nor any right, privilege, obligation, or liability acquired, accrued, or incurred under the said enactments or by-laws;

(*c*) Nor any penalty, forfeiture, or punishment incurred in respect of any offence committed against the said enactments or by-laws;

(*d*) Nor any legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid.

Commencement.

6 This Ordinance shall come into operation, in all towns in which boards have heretofore been established, from and after the First day of January, 1888, and in any other town in which a board may hereafter be established, from and after the date specified in the Proclamation to be issued under section 2.

28th October, 1887.

No. 10 of 1887.

An Ordinance to amend "The Road Ordinance, 1861."

(*See No. 10 of 1861.*)

Preamble.

WHEREAS it is expedient to amend "The Road Ordinance, 1861," in the particular hereinafter mentioned: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Proviso to be read as added to, and contained in, section 23 of "The Road Ordinance, 1861," empowering the Governor, with the advice of the Executive Council, to appoint an additional member to a district committee.

1 From and after the passing of this Ordinance, section 23 of "The Road Ordinance, 1861," shall be taken and read as though the following proviso were added thereto and contained therein :

Provided also that it shall be lawful for the Governor, acting with the advice of the Executive Council, to appoint any fit and proper person as an additional member of the district committee of any district in which such appointment is applied for by the provincial road committee, or is otherwise made to appear to him to be expedient.

This Ordinance to be read as one with "The Road Ordinance, 1861."

2 This Ordinance and "The Road Ordinance, 1861," shall be construed and read as one Ordinance.

25th October, 1887.

No. 11 of 1887.

An Ordinance to amend "The Ceylon Penal Code."

Preamble.

WHEREAS it is expedient to amend "The Ceylon Penal Code" in the particulars hereinafter mentioned : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Sections 257, 258, and 259 of "The Ceylon Penal Code" amended.

1 From and after the passing of this Ordinance, in chapter XIII. of "The Ceylon Penal Code," sections 257 and 258 shall be read and construed as though the word "fraudulently" had been inserted before the word "uses" wherever the latter word occurs in each of the said sections, and section 259 shall be read and construed as though the word "fraudulently" had been inserted before the word "used" in the said section.

Resistance or obstruction to lawful apprehension under a civil process.

2 From and after the passing of this Ordinance, whoever intentionally offers any resistance, or illegal obstruction to the lawful apprehension of himself or of any other person on any civil process issued by any competent court of justice, or who escapes or attempts to escape from any custody in which he is lawfully detained on such process, or who rescues or attempts to rescue any other person from any custody in which that person is lawfully detained on

such process, shall be guilty of an offence, and shall on conviction be liable to a fine not exceeding one hundred rupees, or to simple or rigorous imprisonment for any term not exceeding six months, or to both. Penalty.

3 This Ordinance and the Ordinance No. 2 of 1883, intituled "The Ceylon Penal Code," shall be read together as one Ordinance. To be read with "The Ceylon Penal Code" as one Ordinance.

25th October, 1887.

No. 12 of 1887.

An Ordinance amending "The Toll Ordinance, 1867."

WHEREAS it is expedient to amend "The Toll Ordinance, 1867," in the particulars hereinafter mentioned: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 This Ordinance shall come into operation from and after first January, 1888, and shall be read and construed as one with Ordinance No. 14 of 1867, herein referred to as "the principal Ordinance," and Ordinance No. 2 of 1882. Commencement. Ordinance to be read as one with Ordinances No. 14 of 1867 and No. 2 of 1882.

2 Section 4 of the principal Ordinance shall be taken and read as though the words "whether drawn or propelled by man or beast" were inserted after the words "every vehicle not enumerated above." Section 4 of Ordinance No. 14 of 1867 amended.

Provided, however, that the maximum rate leviable on bicycles, tricycles, and jinrickshas shall be twelve and a half cents. Proviso.

2nd November, 1887.

No. 13 of 1887.

An Ordinance to extend the provisions of Ordinance No. 19 of 1866 to places other than parts of the Sea-coast.

WHEREAS it is expedient to extend the provisions of Ordinance No. 19 of 1866, intituled "An Ordinance to prevent the unnecessary destruction of Fish," to places other than parts of the sea-coast of this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 It shall be lawful for the Governor, with the advice of the Executive Council, from time to time, by Proclamation in the *Government Gazette*, to prohibit in any river, canal, lake, or inland water of this island the use of certain kinds of nets to be in such Proclamation specified, or to restrict their use to certain places, or to attach such conditions to their use as shall appear expedient to the Governor, with the said advice. Governor in Executive Council may prohibit the use of certain kinds of nets in any river, canal, lake, or inland water, or may attach conditions to the use thereof.

Offence.

Penalties.

2 Whosoever after such Proclamation shall use or join in using any kind of nets so prohibited as aforesaid, or shall use or join in using the same contrary to the conditions which may be attached to such use, shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees, or to simple or rigorous imprisonment for any term not exceeding three months, or to both ; and the nets and the implements belonging thereto, and the fish caught by the same, shall be liable to be seized and disposed of for the benefit of the Crown, as the police magistrate of the district shall direct.

2nd November, 1887.

No. 14 of 1887.

An Ordinance repealing Ordinance No. 16 of 1886.

Preamble.

WHEREAS it is expedient to repeal the Ordinance hereinafter mentioned : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Repeal of Ordinance specified in the schedule : No. 16 of 1886.

The Ordinance specified in the schedule hereto is hereby repealed to the extent specified in the third column of that schedule.

SCHEDULE.

No. and Year.	Title.	Extent of Repeal.
16 of 1886 ...	An Ordinance to authorize the imposition of an Export Duty on Spirits	... The whole Ordinance

2nd November, 1887.

No. 15 of 1887.

An Ordinance relating to the employment of Guides within Municipalities.

Preamble.

WHEREAS it is expedient that provision should be made for regulating and controlling the employment of persons plying for hire as guides within the municipalities in this island : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Short title.

Ordinance to apply to Colombo Municipality only, but Governor in Executive Council may extend it to other municipalities by Proclamation.

1 This Ordinance, which may be cited as "The Guides' Ordinance, 1887," shall apply to the Municipality of Colombo only ; but the Governor in Executive Council may, by Proclamation, extend it to any other municipality or municipalities established under the provisions of "The Municipal Councils' Ordinance, 1887."

2 In this Ordinance the term "licensed guide" shall mean any guide who is registered and licensed under section 4.

Interpretation clause: "Licensed guide."

3 From and after the passing of this Ordinance every person plying for hire as a guide within a municipality shall be duly registered and licensed as hereinafter provided.

Persons plying for hire as guides to be licensed.

4 It shall be the duty of the municipal council to cause to be registered in a book to be kept for that purpose, and to be called "The Register of Licensed Guides," in numerical order, the name, description, and such other particulars as may be necessary for identification of every person applying to be licensed to be employed as a guide; and the municipal council shall thereupon issue to such person a license to be employed as aforesaid, which license shall bear the registered number of the applicant, and shall be in the form in the schedule hereto, and shall be in force for such time, not exceeding twelve months, as shall be mentioned therein; and the date of such license, together with the period for which it shall be granted, shall be registered in "The Register of Licensed Guides."

Municipal council to keep register and to issue licenses.

Particulars to be entered in register.

Provided, however, that the municipal council may, for good cause, refuse to issue a license to any person applying therefor, and may from time to time renew any license which may have expired; and such refusal or renewal shall be duly registered in the register.

Proviso. Municipal council may refuse to issue license.

5 The municipal council shall cause to be delivered to each licensed guide a badge of uniform pattern, bearing thereon the number of his license, the cost of which badge shall be paid by the person to whom the same is delivered; and it shall be the duty of every guide, when acting as such, to wear such badge conspicuously exposed upon his person; and in case the owner of such badge shall at any time satisfy the municipal council that such badge has been lost or destroyed, it shall be lawful for the municipal council to cause another badge to be delivered to such guide upon payment of the cost thereof.

Licensed guides to have badges, and to wear them.

Provision for lost badges.

6 By-laws for the general government of licensed guides, and for regulating the fees which may lawfully be demanded by them, shall, from time to time, be prepared by the municipal council, consistently with the provisions of this Ordinance, which by-laws, when approved by the Governor in Executive Council, and published in the *Government Gazette*, shall have the effect of law; and the municipal council shall have power to alter, amend, or cancel any such by-law or by-laws, subject, however, to the approval of the Governor in Executive Council.

Municipal council may make by-laws.

7 Every licensed guide—

Offences.

(*a*) Who shall act as such without wearing his proper badge exposed in a conspicuous manner; or

(*b*) Who shall use or exhibit any badge other than his own; or

(*c*) Who in the course of his employment shall use violent or abusive language to, or who shall threaten or molest, or by any means extort money from, any person; or

(*d*) Who shall violate any by-law made under the authority of this Ordinance;

and every unlicensed person—

(*a*) Who shall ply for hire as a guide; or

(*b*) Who shall use or exhibit, with intent to deceive, a licensed guide's badge or any other badge intended to represent a licensed guide's badge;

Penalties.

shall be guilty of an offence, and shall be liable on conviction to a penalty not exceeding twenty rupees, or to simple or rigorous imprisonment for any period not exceeding one month.

Municipal council may suspend or cancel licenses.

8 If any licensed guide shall be convicted of any offence against this Ordinance, the municipal council may, in addition to any penalty which may have been imposed upon the offender, suspend or cancel the license of such guide; and any guide whose license shall have been suspended shall, for the purposes of this Ordinance, during the period of such suspension, be deemed an unlicensed person.

Entry of suspension or cancellation to be made in register, and license and badge to be delivered up to the municipal council.

9 When the license of any guide shall have expired and shall not have been renewed, or when it has been cancelled or suspended under the provisions of the next preceding section, the municipal council shall cause an entry thereof to be made in the register, and the guide whose license shall have expired and shall not have been renewed, or whose license shall have been cancelled or suspended, shall forthwith deliver up to the municipal council his license and badge; and it shall be the duty of the municipal council to return to the person whose license shall have expired and shall not have been renewed, or whose license shall have been cancelled, the original cost of such badge, and to return to the person whose license has been suspended his license and badge when his period of suspension has expired; and any licensed guide who shall neglect or refuse to deliver up his license and badge as required by this section shall be guilty of an offence, and liable on conviction to a penalty not exceeding twenty rupees, or to simple or rigorous imprisonment for any period not exceeding one month.

Penalty for neglecting to deliver up license and badge

Fees to be levied on licenses, and to be paid into municipal fund.

10 It shall be lawful for the municipal council to levy the under-mentioned fees in respect of all licenses issued or renewed by them under this Ordinance; and such fees shall be paid into the municipal fund:—

(*a*) When the license is for a period not exceeding three months, three rupees.

(*b*) When the license is for a period not exceeding six months, five rupees.

(*c*) When the license is for a period not exceeding twelve months, seven rupees and fifty cents.

11 All powers and duties by this Ordinance vested in, and imposed on, the municipal council may be exercised and performed by the chairman; and all documents and instruments under the hand of the chairman or secretary shall, for the purposes of this Ordinance, be deemed to have been issued by the municipal council.

Chairman to exercise and perform all powers and duties under this Ordinance; and instruments under the hand of the chairman or secretary to be deemed as having been issued by the municipal council.

SCHEDULE.

By the Municipal Council of ———.

This is to license ——— as a Guide under "The Guides' Ordinance, 87," within the Municipality of ———, for the period of ——— from the date hereof.

Dated ———. (Signed) ———
Chairman (*or* Secretary) of the Municipality.

Not transferable.]

2nd November, 1887.

No. 16 of 1887.

An Ordinance to exempt Materials used in making Tea Boxes from Duty of Customs.

WHEREAS it is expedient to exempt materials imported into this colony for making tea boxes from the duty of customs leviable under the authority of Ordinance No. 17 of 1869, intituled "An Ordinance for the General Regulation of Customs in the Island of Ceylon:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

From and after the passing of this Ordinance, all materials which are used in making tea boxes, and which shall from time to time be specified in any Proclamation issued by the Governor in Executive Council, and published in the *Government Gazette*, may be imported into this colony free of duty of customs, anything in the Ordinance No. 17 of 1869, or the Ordinance No. 14 of 1871, or the Ordinance No. 39 of 1884, to the contrary notwithstanding; and it shall be lawful for the Governor in Executive Council, by further Proclamation published in the *Government Gazette*, to revoke, alter, or amend any such Proclamation as aforesaid.

Governor in Executive Council by Proclamation to specify what materials imported into this colony, and used in making tea boxes, shall pass free of duty of customs.

Power to revoke, alter, or amend such Proclamation.

7th November, 1887.

No. 17 of 1887.

(*As amended by No. 3 of 1891.*)

An Ordinance relating to Treasure Trove.

Preamble.

WHEREAS it is expedient to provide against the concealment of treasure trove found in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Interpretation clause: "Treasure trove." "Chief headman." [§ 2, 3 of 1891]

1 For the purposes of this Ordinance "treasure trove" shall mean any money, coin, gold, silver, plate, bullion, precious stones, antiquities, or anything of any value found hidden in, or in anything affixed to, the earth, and the owner of which is unknown or cannot be found; and "chief headman" shall include any mudaliyár muhandiram, raṭémahatmayá, kórála, arachchi, vanniya, udaiyár, maniakar, or adigár.

All treasure trove to be the absolute property of Her Majesty.

2 All treasure trove shall be the absolute property of Her Majesty and her successors, and the person finding the same shall not, as of right, be entitled to any portion thereof, any law or custom to the contrary notwithstanding.

Duty of finder, and of person who acquires possession of, treasure trove. [§ 3, 3 of 1891]

3 (1) From and after the coming into operation of this Ordinance it shall be the duty of every person finding treasure trove, and every person to whose knowledge the finding of treasure trove shall in any way come, and of every person to whose possession treasure trove shall in any way come, forthwith to report the fact of such finding and to surrender the treasure trove in his possession to the nearest police magistrate, if any such magistrate resides within a distance of ten miles from the place in which such finding shall have occurred, or in which such person shall be at the time he acquires possession of such treasure trove. But if no such magistrate resides within the distance aforesaid, such report and surrender shall be made to the nearest chief headman or to the nearest police officer not under the rank of sergeant, and it shall be the duty of such headman or police officer forthwith to give information of such report, and to deliver possession of any treasure trove which may have been surrendered to him to the nearest police magistrate.

(2) On the receipt of the report mentioned in the preceding sub-section, or on complaint being made by any person to a police court that an offence has been committed under this Ordinance, the police magistrate shall proceed to inquire into the matter of such report or complaint in order to ascertain—

(*a*) What was the treasure trove actually found;

(*b*) Who were the finders;

(*c*) Whether any offence has been committed under the Ordinance, and, if so, by whom.

If, however, such magistrate has no jurisdiction over the district or division in which the treasure trove has been found or may be reported to have been found, he shall forthwith transmit such information as he may have received, and any treasure trove which may have been delivered to him, to the police magistrate having such jurisdiction, and such magistrate shall thereupon proceed to hold the inquiry as above provided.

4 The police magistrate when holding such inquiry as aforesaid shall have the same power of issuing any summons, warrant, or search warrant, and of examining witnesses on oath or affirmation, and of enforcing the production of any documents, goods, articles, or things as he has when dealing with cases in his ordinary criminal jurisdiction; and any person wilfully giving false evidence at any such inquiry shall be liable to the pains and penalties prescribed in section 179 of the Ceylon Penal Code.

Powers of magistrate in respect of inquiries under this Ordinance.

5 The record and detailed report of such inquiry when made shall be forwarded by such magistrate, together with his finding on the evidence adduced before him, to the Attorney-General, who may in respect thereof exercise any of the powers conferred on him by chapters XVI. and XX. of the Criminal Procedure Code, the proceedings at such inquiry being treated in all respects as the proceedings referred to in the said chapters.

Record of inquiry to be forwarded to the Attorney-General, who shall deal with same under chapters XVI and XX of the Criminal Procedure Code.

6 The finder or other person to whose possession treasure trove shall have come shall, on complying with the provisions of section 3, and on voluntarily surrendering such treasure trove to any chief headman, police officer, or police magistrate, as hereinbefore provided, and on such treasure trove being retained by the Ceylon Government, become entitled to receive from the said Government payment of a sum of money equivalent to the value of the material of such treasure trove, together with an additional one-fifth of such value. The value in each case shall be determined by the Governor in Executive Council.

Reward to finder or possessor.

[§ *5, 3 of 1891*]

7 When the finder or possessor of treasure trove does not voluntarily surrender the same in manner hereinbefore provided, and any other person shall give information which shall lead to the recovery thereof, such person shall, instead of such finder or possessor, become entitled to receive the afore-mentioned reward.

Reward to informer.

Provided that if at any time a conflict of claim should arise in respect of such reward, as between the finder and possessor or either of them and an informer, or as between two or more of any finders, possessors, and informers, the decision of the Governor, in Executive Council, thereon shall be final and conclusive.

Proviso.

8 Every finder of treasure trove, and every person to whose knowledge the finding of treasure trove shall in any way come, and every person to whose possession treasure trove shall have come, who shall wilfully omit or neglect to report such finding, or to deliver possession of such treasure trove in manner in section 3 provided, and any person who conceals or does any act towards concealing treasure trove, or in any way alters or attempts to alter such treasure trove so as to conceal its identity, and any chief headman or police officer who wilfully neglects to perform the duty imposed on him by section 3, shall be guilty of an offence, and shall be liable on conviction to simple or rigorous imprisonment for a term not exceeding two years, or to a fine not exceeding one thousand rupees, or both.

Penalty for concealment.

[§ *6, 3 of 1891*]

Regulation No. 15 of 1823 not to apply to treasure trove.

10 Nothing contained in the Regulation No. 15 of 1823 shall in any manner apply to treasure trove.

Commencement.

11 This Ordinance shall not come into operation until such time as Her Majesty's gracious allowance and confirmation* of the same shall be notified by Proclamation in the *Government Gazette.*

15th November, 1887.

No. 18 of 1887.

Ordinance making special provision for the Administration of Justice in the North-Western Province.

Preamble.

WHEREAS by reason of the increase of cattle-stealing in the North-Western Province of this island, it is expedient that special provision should be made for the administration of justice in the said province : Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows :

Governor may appoint a police magistrate for the North-Western Province.

1 It shall be lawful for the Governor to appoint a police magistrate for the North-Western Province of this island, anything in the Ordinance No. 11 of 1868 or the Ordinance No. 3 of 1883 to the contrary notwithstanding; and such magistrate shall, within the said Province, have and exercise all the jurisdiction and powers which by law a police magistrate may have and exercise within any division in this island, and may, subject to the proviso contained in section 19 of the last-mentioned Ordinance, hear, try, and determine any case which has heretofore been or may hereafter be instituted in any police court within the said Province, and in which any other magistrate may or may not have heard part of the evidence.

Such magistrate may sentence cattle-stealers to be whipped.

2 The police magistrate so appointed as aforesaid shall also have power and authority to pass sentence of whipping, in addition to, or in lieu of, such other punishment or punishments as police courts may lawfully inflict, on any person above the age of sixteen years who may be convicted of the theft of any bull, cow, steer, buffalo, heifer, or calf. Provided that the whipping under any such sentence shall in no case exceed twenty-five lashes, and may be inflicted in any place, within or without the precincts of a prison, in the said province as the magistrate shall direct, anything in any other Ordinance to the contrary notwithstanding.

23rd November, 1887.

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* Confirmation notified February 13, 1888.

No. 21 of 1887.

An Ordinance relating to the Cultivation of Land for a share of the Produce thereof.

WHEREAS it is expedient to exempt certain contracts for the cultivation of paddy fields and chena lands from the operation of the Ordinance No. 7 of 1840, intituled "An Ordinance to provide more effectually for the Prevention of Frauds and Perjuries:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 The provisions of section 2 of the Ordinance No. 7 of 1840 shall not be taken to apply to any contract or agreement for the cultivation of paddy fields or chena lands for any period not exceeding twelve months, if the consideration for such contract or agreement shall be that the cultivator shall give to the owner of such fields or lands any share or shares of the crop or produce thereof. Certain contracts or agreements for the cultivation of paddy fields and chenas for any period not exceeding twelve months need not be notarially executed

2 This Ordinance shall come into operation in such places, districts, or provinces, and at such time or times, respectively, as the Governor in Executive Council shall from time to time, by Proclamation to be published in the *Government Gazette*, appoint; and it shall be lawful for the Governor in Executive Council, by Proclamation, to declare that this Ordinance shall cease to have operation in any place, district, or province which may become subject thereto, in which case this Ordinance shall accordingly cease to have any operation in such place, district, or province. Commencement.

19th December, 1887.

No. 1 of 1888.

An Ordinance to amend "The Criminal Procedure Code, 1883."

(See No. 3 of 1883.)

WHEREAS it is expedient to amend in some respects "The Criminal Procedure Code, 1883:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: Preamble.

1 Before making any order, under section 177 of "The Criminal Procedure Code, 1883," committing the accused for trial before the Supreme Court, the police magistrate shall, in every case, ask the accused to elect from which of the respective panels of jurors to be summoned for attendance and service during the criminal sessions at which the accused is to be tried the jury shall be taken for the trial, and the magistrate shall record such election, if made. The Accused persons before being committed for trial before the Supreme Court may elect the panel from which the jury for the trial should be taken.

accused person so electing shall thereafter be bound by, and may be tried according to, his election, subject, however, in all cases to the provisions of section 288 as hereinafter amended of the said Code.

Section 181 amended. Magistrate to endorse names of complainants and witnesses on back of each commitment.

2 In section 181 of the said Code the following words shall be inserted at the end thereof, and the said section shall take effect and be construed accordingly :

and the magistrate shall endorse the names of such complainants and witnesses on the backs of the respective commitments.

Section 287 repealed and new enactment substituted therefor.

3 Section 287 of the said Code is hereby repealed, and in lieu thereof the following enactment shall take effect :

The jury shall consist of such uneven number, not being less than seven or more than nine, as the Governor in Executive Council, by order applicable to any particular district or districts, may direct, except where the offence charged is one punishable with death, in which case the jury shall consist of nine persons. In all cases where the trial is for an offence punishable with death, the verdict shall be by a majority of at least two-thirds : in all other cases the verdict may be returned by a majority in number of the jury.

Section 288 amended. What jury shall sit if the accused and the Attorney-General cannot agree.

4 The proviso in section 288 of the said Code is hereby repealed, and in lieu thereof the following proviso shall be taken and read as part of the said section :

Provided that if they do not agree, the accused person shall be tried by a jury selected from the list referred to as list (1) in section 323 of the said Code, unless the judge otherwise directs ; but in no case shall the accused person be allowed as of right the jury he asks for.

Section 359 amended. Deposition of witness to be signed by interpreter.

5 Section 359 shall be taken and read as though the following words were inserted at the end thereof :

and where the evidence is taken under chapters XVI., XX., and XXI., shall also be signed by the interpreter, if any shall have been employed.

Section 372 amended. Judgment in alternative.

6 Section 372 of the said Code shall be taken and read as though the following words were inserted between the second and third paragraphs thereof :

When the conviction is under the Ceylon Penal Code, and it is doubtful under which of two sections, or under which of two parts of the same section, of that Code the offence falls, the court shall distinctly express the same and pass judgment in the alternative.

Section 389 repealed.

7 Section 389 of the said Code is hereby repealed, and in lieu thereof the following enactment shall take effect :

Sentences on escaped convict.

No convict shall, by reason of his escape from prison, avoid any unexpired term of imprisonment, simple or rigorous, or any other punishment to which he was liable under any sentence or sentences passed on him prior to his escape.

When sentence is passed under the said Code on an escaped convict of death, or of fine or whipping with or without imprisonment, such sentence of death, fine, or whipping shall, subject to the provisions in the said Code contained, take effect immediately; and if the imprisonment under the new sentence is rigorous, and such convict was undergoing only simple imprisonment when he escaped, the rigorous imprisonment shall take effect immediately, and shall be enforced concurrently with the former sentence; but if such convict was undergoing rigorous imprisonment when he escaped, the rigorous imprisonment under the new sentence shall take effect after such convict has suffered rigorous imprisonment for a further period, commencing from the date of his re-capture, equal to that which at the time of his escape remained unexpired of his former sentence.

Section 404 amended. Attorney-General may file appeal within twenty-one days from date of acquittal.

8 In section 404 of the said Code the following words shall be inserted at the end thereof, and the said section shall take effect and be construed accordingly:

who may file his petition of appeal in the court in which such judgment of acquittal has been pronounced within twenty-one days from the date of such judgment.

Section 467 amended. Record of examination of dying witnesses when receivable in evidence without further proof.

9 Section 467 of the said Code shall be taken and read as though the following words were inserted at the end thereof:

And such statement, when purporting to have been taken on oath or affirmation in the presence of the person affected thereby, who shall have had the opportunity to cross-examine, shall be admissible in evidence against such person without further proof. Provided that the witness who made the statement is dead, or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay and expense which the court considers unreasonable.

Offenders under section 314 of Penal Code may be arrested without warrant.

10 In the third column of schedule II. to the said Code the words "may arrest without warrant" shall be substituted for the words "shall not arrest without warrant" as applying to section 314 of the Ceylon Penal Code.

Schedule II. amended. District courts may try offences under sections 419, 454, 458, and 459 of Ceylon Penal Code.

11 In the seventh column of schedule II. to the said Code the words "district court" shall be inserted as applying to sections 419, 454, 458, and 459 of the Ceylon Penal Code, and the said schedule shall be read and construed accordingly.

A magistrate acting under chapter XVI. or XXXVII. may require bail from complainant and witnesses, and may in case of refusal or neglect commit party in default to prison.

12 In proceeding under chapter XVI. of the said Code, the police magistrate may at any stage of the inquiry require the complainant or any witness for the prosecution or defence to execute a bond, with or without sureties, for his appearance to prosecute or give evidence, as the case may be, either before himself, or any other police magistrate, or before a superior court; and for the like purpose it shall be lawful for any police magistrate who examines any complainant or witness on commission under the provisions of chapter XXXVII. of the said Code, to require such complainant

or witness so examined to execute a bond, with or without sureties, as such magistrate may determine. If a complainant or witness refuses or neglects to execute such bond, the police magistrate may commit him to prison until such bond is duly executed, or until he shall be lawfully discharged.

In prosecutions for having given false evidence, deposition duly recorded shall be admitted without further proof.
Proviso.

13 The deposition of a witness, if it purports to have been taken and recorded in accordance with the provisions of the said Code, shall be receivable in evidence, without further proof, in any inquiry or trial in which such witness may be charged with having intentionally given false evidence.

Provided that the court may, if it thinks fit, summon and examine the judge, magistrate, or interpreter by whom the deposition was signed, or the person by whom such deposition was written.

Deposition of witness as to the custody or disposal of any matter or thing forwarded to a public officer for analysis and report, or of any instrument or weapon used in or about the commission of an offence.
Proviso.

14 Where the deposition of any witness is tendered in evidence for the purpose of proving the custody or disposal of any matter or thing forwarded in the course of any inquiry to any public officer for examination or analysis and report, or of proving the custody or disposal of any instrument, weapon, matter, or thing used in or about the commission of an offence, such deposition, if it purports to have been taken and attested by a police magistrate in the presence of the accused, may be given in evidence in any inquiry, trial, or proceeding under the said Code, although the deponent is not called as a witness, anything in the said Code to the contrary notwithstanding. Provided always that the court may, if it thinks fit, summon and examine such deponent as to the subject matter of his deposition.

Magistrate may record statements and confessions voluntarily made by an accused person at any stage of an inquiry or trial.

15* Any police magistrate may record any statement or confession made voluntarily by the accused at any stage of any inquiry or trial, and the same shall be recorded and signed in manner provided in section 136 of the said Code in respect of statements and confessions made before the commencement of any inquiry or trial. All such first-mentioned statements and confessions, purporting to have been duly recorded and signed in manner aforesaid, shall be admissible in evidence without further proof in any subsequent judicial proceeding, or in any later stage of the same judicial proceeding, subject, however, to the requirements of the first proviso contained in section 473 of the said Code.

Power to examine the accused at any stage of an inquiry or trial.

16* For the purpose of enabling an accused person to explain any circumstances appearing in the evidence against him, the court may at any stage of any inquiry or trial, without previously warning the accused, put such questions to him as the court considers necessary, and shall for the purpose aforesaid question him generally on the case after the witnesses for the prosecution have been examined and before he is called on for his defence. No oath or affirmation shall be administered to the accused.

* See section 17 of Ordinance No. 22 of 1890.

The accused shall not render himself liable to punishment by refusing to answer such questions, or by giving false answers to them.

All questions put to, and answers given by, the accused shall, except in the Supreme Court, be recorded, signed, and certified in the same manner as the examination referred to in sections 368, 369, and 370 of the said Code.

Explanation.—The examination of the accused is for the purpose of enabling him to explain any circumstances appearing in evidence against him, and should, therefore, not be a general examination on whatever might suggest itself to the court. The discretion given by this section for questioning a prisoner is not for the purpose of driving him to make statements criminatory of himself. It can only be properly used for ascertaining from a prisoner how he may be able to meet facts disclosed in evidence against him, so that those facts should not stand against him unexplained. Questions must not, therefore, be put to the prisoner merely to supplement the case for the prosecution when it is defective.

Warrants specially directed may be executed anywhere within the island without endorsement.

17 Whenever there is reason to believe that the delay occasioned by obtaining the endorsement of the magistrate within the local limits of whose jurisdiction a warrant is to be executed will prevent such execution, the magistrate issuing the warrant may, if he sees fit so to do, direct the warrant specially to any person ; and a warrant so specially directed shall have effect, and may lawfully be executed by such person without such endorsement as aforesaid anywhere within the island, anything in the said Code to the contrary notwithstanding.

Proviso.

Provided always that upon the execution of such warrant the provisions of sections 60 and 61 of the said Code shall apply.

Warrant directed to police officer.

18 Any warrant directed to any police officer may also be executed by any other police officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

Summary trial of witness on alternative charges for giving false evidence.

19 If in the course of a trial by jury before the Supreme Court any witness shall on any material point contradict the evidence previously given by him at the inquiry before the magistrate, it shall be lawful for the presiding judge, upon the conclusion of such trial, to have such witness tried by the same jury on an indictment which may then and there be presented by the Attorney-General in the form (4) contained under the heading of "Charges with two or more heads" in schedule III. to the said Code ; and such witness, if convicted, shall be liable to the punishment prescribed in section 190 of the Ceylon Penal Code.

Proviso.

Provided, however, that the presiding judge may, if he considers expedient, adjourn the trial of such witness for such period as he may think fit, and may commit such witness to custody or take bail in his own recognizances or with sureties for his appearance ; and such adjourned trial shall be before the same or any other jury as the judge may direct.

Persons suspected to be lunatics where and how to be remanded.

20 Whenever a magistrate or judge in proceeding under chapter XXXIII. of the said Code has occasion to subject any accused person who is suspected to be of unsound mind to medical observation, he shall remand such person once or oftener for such reasonable time as shall be specified in the order of remand, either to the custody of the fiscal to be by him detained in prison, or of the officer in charge of such house or place of observation as may be appointed by the Governor under the provisions of section 6 of "The Lunacy Ordinance, 1873," to be by such officer detained in such house or place of observation. And every person so remanded shall be subject to the inspection of the medical officer of the prison, or of the house or place of observation, in which he may be detained.

Whipping of juvenile offenders under twelve years of age.

21 Whenever a male offender under twelve years of age is sentenced by any court to whipping without any other punishment in addition thereto for any offence either under the Ceylon Penal Code or any other Ordinance in force in this colony, such whipping, which shall in no case exceed ten strokes with a light cane or rattan, shall be inflicted forthwith within the court premises and in the presence, if he desires to be present, of the parent or guardian of such offender, anything in "The Criminal Procedure Code, 1883," to the contrary notwithstanding. Provided that such whipping shall not be inflicted unless it appears to the court that the offender is in a fit state of health to undergo the same.

Proviso.

To be read as one with "Criminal Procedure Code, 1883."

22 This Ordinance and the Ordinance No. 3 of 1883, intituled "The Criminal Procedure Code, 1883," shall be read together as one Ordinance.

7th January, 1888.

No. 2 of 1888.

An Ordinance to amend "The Mohammedan Marriage Registration Ordinance, 1886."

(See No. 8 of 1886.)

Preamble.

WHEREAS it is expedient to amend "The Mohammedan Marriage Registration Ordinance, 1886:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

To be read with Ordinance No. 8 of 1886.

1 This Ordinance and "The Mohammedan Marriage Registration Ordinance, 1886," hereinafter referred to as "the principal Ordinance," shall be read together as one Ordinance.

Section 13 of Ordinance No. 8 of 1886 repealed.

2 Section 13 of the principal Ordinance is hereby repealed, and in lieu thereof the following enactment shall take effect so soon as the principal Ordinance shall have been brought into operation in manner provided in section 1 thereof:

If both the parties to a marriage shall knowingly and wilfully intermarry under the provisions of this Ordinance under false names, such marriage shall be null and void; and if either of the parties to a marriage shall knowingly and wilfully consent to, or acquiesce in, the registration of a marriage by a person not being an officiating levvai or registrar, such party shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees.

Clandestine marriages void.

Registration by persons other than levvai or registrar made penal.

3 Section 17 of the principal Ordinance is hereby repealed, and in lieu thereof the following enactment shall take effect so soon as the principal Ordinance shall have been brought into operation in manner provided in section 1 thereof:

Section 17 of Ordinance No. 8 of 1886 repealed.

Proof of the registration of any marriage contracted by persons professing the Mohammedan faith, after this Ordinance shall have come into operation, shall be received in all courts in this colony as the best evidence of such marriage; but nothing herein or in the principal Ordinance contained shall be construed to render valid or invalid, merely by reason of its having been registered or not having been registered, any Mohammedan marriage which would otherwise be invalid or valid, or to preclude any legal evidence other than that of registration from being adduced in proof of such marriage.

Registration not to be sole proof of marriage.

27th January, 1888.

No. 3 of 1888.

An Ordinance to amend the Ordinance No. 7 of 1863, relating to Merchant Shipping.

WHEREAS it is expedient to amend, in the particulars hereinafter mentioned, the Ordinance No. 7 of 1863, intituled "An Ordinance relating to Merchant Shipping:" Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1 This Ordinance shall be construed and read as one with the Ordinance No. 7 of 1863, herein referred to as "the principal Ordinance," and with "The Merchant Shipping Amendment Ordinance, 1884."

To be read as one with Ordinance No. 7 of 1863 and Ordinance No 3 of 1884.

2 So much of section 1 as contains the meanings assigned to the expressions "coastwise ship" and "foreign-going ship" is hereby repealed, and in lieu thereof the following enactment shall take effect:

"Coastwise ship" and "foreign-going ship" defined.

(1) "Coastwise ship" shall include every ship employed in trading or going between any ports or places in this island or between any such port or place and any port or place on the coast of India between Bombay and Calcutta.

(2) "Foreign-going ship" shall include every ship employed in trading or going between some port or place in this island and some port or place beyond the limits of this island, excepting that part of the coast of India which lies between Bombay and Calcutta.

Sections 9, 10, and 11 of Ordinance No. 7 of 1863 repealed.

3 Sections 9, 10, and 11 of the principal Ordinance are hereby repealed, and in lieu thereof the following enactments shall take effect:

Examinations.

(1) Examinations shall be instituted for persons who intend to become masters or mates of coastwise ships or foreign-going ships registered in this island, of the burthen of fifty tons and upwards, or who wish to procure certificates of competency hereinafter mentioned.

Examiners.

(2) The Governor shall from time to time nominate two or more competent persons as examiners, and make rules as to the conduct of such examinations and as to the qualifications of the various classes of applicants, and such rules shall be strictly adhered to by the examiners.

Fees.

Fees at the following rates shall be paid to the examiners by all applicants for examination:

	Of a Foreign-going Ship. Rs.	c.		Of a Coastwise Ship. Rs.	c.
For a certificate as master...	20	0	...	10	0
For a certificate as mate ...	10	0	...	5	0

Certificates of competency.

(3) The examiners shall deliver to every applicant who has passed the examination satisfactorily, and who has given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate, hereinafter called a "certificate of competency," to the effect that he is competent to act as master or mate of a coastwise ship registered in this island, or as master or mate of a foreign-going ship registered in this island, as the case may be.

28th November, 1888.

No. 4 of 1888.

An Ordinance to enable Joint Stock Companies to compound for the Stamp Duties payable on certain Shares issued by them unstamped.

(*See No. 4 of 1861.*)

Preamble.

WHEREAS by schedule B to the Ordinance No. 43 of 1884, intituled "An Ordinance to consolidate the Stamp Duties leviable in this Colony," it is provided that every certificate or other document evidencing the right or title of the holder thereof, or any other person, either to any share, scrip, or stock in or of any company or association, or to become proprietor of any share, scrip, or stock in or of any company or association, shall bear a stamp of five cents :

And whereas several of the joint stock companies incorporated under "The Joint Stock Companies' Ordinance, 1861," have inadvertently, and through ignorance of the provisions of the above in part recited schedule of the Ordinance No. 43 of 1884, issued share certificates without attaching thereto the necessary stamp of five cents :

And whereas it is expedient to provide for the recovery of the stamp duty so due and unpaid, and to remove all doubts as to the validity of the shares so issued : Be it therefore enacted by the Governor of Ceylon, with the advice and consent of the Legislative Council thereof, as follows :

Joint stock companies empowered to compound for the payment of duty on unstamped shares heretofore issued.

1 It shall be lawful for any joint stock company now incorporated under "The Joint Stock Companies' Ordinance, 1861," to compound for the payment of duty on all unstamped share certificates heretofore issued, on the following conditions : that within six months from the passing of this Ordinance the said joint stock company do forward to the Commissioner of Stamps an affidavit sworn to by the secretary, or some officer of the said company, setting out the number of share certificates issued by the said company since the passing of the Ordinance No. 43 of 1884, which have not been so stamped as aforesaid, and do pay to the Commissioner of Stamps the amount of the duty due in respect of the same, together with a penalty of ten rupees.

Commissioner to issue certificate declaring the duty leviable in respect of shares has been paid.

2 The Commissioner of Stamps, on receipt of the said affidavit and of the amount of the duty due in respect of the said shares and of the penalty imposed by section 1 of this Ordinance, shall issue a certificate under his hand to the joint stock company, declaring that all the duty leviable in respect of the said shares has been duly paid.

After issue of certificate all shares issued to be valid.

3 After the issuing of the aforesaid certificate all share certificates issued by the said joint stock company subsequent to the passing of the Ordinance No. 43 of 1884 and prior to the passing of this Ordinance, shall be admitted for all purposes to be good and available in law as if duly stamped at the date of the execution thereof.

28th November, 1888.

No. 5 of 1888.

An Ordinance repealing Ordinance No. 17 of 1867.

Preamble.

WHEREAS it is expedient to repeal the Ordinance hereinafter mentioned: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Repeal of Ordinance specified in the schedule No. 17 of 1867.

The Ordinance specified in the schedule hereto is hereby repealed to the extent specified in the third column of that schedule.

SCHEDULE.

No. and Year.	Title.	Extent of Repeal.
No. 17 of 1867...	An Ordinance for the better prevention of Contagious Diseases ...	The whole Ordinance

3rd December, 1888.

No. 6 of 1888.

An Ordinance to amend "The Joint Stock Companies' Ordinance, 1861."

(*See No. 4 of 1861.*)

Preamble.

WHEREAS "The Joint Stock Companies' Ordinance, 1861," requires in some respects to be amended: It is hereby enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title.

1 This Ordinance may be cited for all purposes as "The Joint Stock Companies' Ordinance, 1888."

Ordinance to be construed as one with Ordinance No. 4 of 1861.

2 "The Joint Stock Companies' Ordinance, 1861," is hereinafter referred to as "the principal Ordinance," and the principal Ordinance and this Ordinance are hereinafter distinguished, and may be cited for all purposes, as "The Joint Stock Companies' Ordinances, 1861 and 1888," and this Ordinance shall, so far as is consistent with the tenor thereof, be construed as one with the principal Ordinance; and the expression "this Ordinance" in the principal Ordinance, and any expression referring to the principal Ordinance which occurs in any Ordinance or other document, shall be construed to mean the principal Ordinance as amended by this Ordinance.

Commencement of Ordinance.

3 This Ordinance shall come into force on the first day of January, 1889, which date is hereinafter referred to as the commencement of this Ordinance.

4 The word "capital" as used in this Ordinance shall include paid-up capital, and the power to reduce capital conferred by this Ordinance shall include a power to cancel any lost capital or any capital unrepresented by available assets, or to pay off any capital which may be in excess of the wants of the company; and paid-up capital may be reduced either with or without extinguishing or reducing the liability (if any) remaining on the shares of the company; and to the extent to which such liability is not extinguished or reduced, it shall be deemed to be preserved.

Construction of capital and powers to reduce capital.

5 Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital; but no such resolution for reducing the capital of any company shall come into operation until an order of the court is registered by the registrar of joint stock companies, as is hereinafter mentioned.

Power to company to reduce capital.

6 The company shall, after the date of the passing of any special resolution for reducing its capital, add to its name, until such date as the court may fix, the words "and reduced" as the last words in its name, and those words shall, until such date, be deemed to be part of the name of the company, within the meaning of the principal Ordinance.

Company to add "and reduced" to its name for a limited period.

7 A company which has passed a special resolution for reducing its capital may apply to the court by petition for an order confirming the reduction; and on the hearing of the petition the court, if satisfied that, with respect to every creditor of the company, who, under the provisions of this Ordinance, is entitled to object to the reduction, either his consent to the reduction has been obtained, or his debt or claim has been discharged, or has determined, or has been secured as hereinafter provided, may make an order confirming the reduction on such terms and subject to such conditions as it deems fit.

Company to apply to the court for an order confirming reduction.

8 The expression "the court" shall in this Ordinance mean the district court which has jurisdiction to make an order for winding up the petitioning company, and the 68th section of the principal Ordinance shall be construed as if that section included proceedings under this Ordinance; and the court may in any proceedings under this Ordinance make such order as to costs as it deems fit.

Definition of "the court."

9 Where a company proposes to reduce its capital, every creditor of the company who at the date fixed by the court is entitled to any debt or claim, which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the proposed reduction and to be entered in the list of creditors who are so entitled to object.

Creditors may object to reduction, and list of objecting creditors to be settled by the court.

The court shall settle a list of such creditors, and for that purpose shall ascertain as far as possible, without requiring an application from any creditor, the names of such creditors

and the nature and amount of their debts or claims, and may publish notices fixing a certain day or days within which creditors of the company who are not entered on the list are to claim to be so entered, or to be excluded from the right of objecting to the proposed reduction.

Court may dispense with consent of creditor on security being given for his debt.

10 Where a creditor whose name is entered on the list of creditors, and whose debt or claim is not discharged or determined, does not consent to the proposed reduction, the court may, if it think fit, dispense with such consent on the company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the court may direct a sum of such amount as is hereinafter mentioned; that is to say:

(1) If the full amount of the debt or claim of the creditor is admitted by the company, or, though not admitted, is such as the company are willing to set apart and appropriate, then the full amount of the debt or claim shall be set apart and appropriated.

(2) If the full amount of the debt or claim of the creditor is not admitted by the company, and is not such as the company are willing to set apart and appropriate, or if the amount is contingent, or not ascertained, then the court may, if it think fit, inquire into and adjudicate upon the validity of such debt or claim and the amount for which the company may be liable in respect thereof, in the same manner as if the company were being wound up by the court; and the amount fixed by the court on such inquiry and adjudication shall be set apart and appropriated.

Dispensing with consent of creditors and of adding the words "and reduced" in certain cases.

11 Where the reduction of the capital of a company does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital—

(1) The creditors of the company shall not, unless the court otherwise direct, be entitled to object, or required to consent to the reduction; and

(2) It shall not be necessary, before the presentation of the petition for confirming the reduction, to add, and the court may, if it thinks it expedient so to do, dispense altogether with the addition of the words "and reduced."

In any case that the court thinks fit so to do, it may require the company to publish in such manner as it thinks fit the reasons for the reduction of its capital, or such other information in regard to the reduction of its capital as the court may think expedient with a view to give proper information to the public in relation to the reduction of its capital by a company, and, if the court thinks fit, the causes which led to such reduction.

Order and minute to be registered.

12 The registrar of joint stock companies, upon the production to him of an order of the court confirming the reduction of the capital of a company, and the delivery to him of a copy of the order and of a minute (approved by the

court), showing with respect to the capital of the company as altered by the order the amount of such capital, the number of shares in which it is to be divided, the amount of each share, and the amount (if any) proposed to be deemed to have been paid upon each share at the date of the registration, shall register the order and minute, and on the registration the special resolution confirmed by the order so registered shall take effect.

Notice of such registration shall be published in such manner as the court may direct.

The registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requisitions of this Ordinance with respect to the reduction of capital have been complied with, and that the capital of the company is such as is stated in the minute.

Minute to form part of memorandum of association.

13 The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum of association of the company, and shall be of the same validity, and subject to the same alterations, as if it had been originally contained in the memorandum of association, and subject as in this Ordinance mentioned, no member of the company, whether past or present, shall be liable in respect of any share to any call or contribution exceeding in amount the difference (if any) between the amount which has been paid on such share and the amount of the share as fixed by the minute.

Saving of rights of creditors who are ignorant of proceedings.

14 If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a company under this Ordinance is, in consequence of his ignorance of the proceedings taken with a view to such reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and after such reduction the company is unable within the meaning of the 76th section of the principal Ordinance to pay to the creditor the amount of such debt or claim, every person who was a member of the company at the date of the registration of the order and minute relating to the reduction of the capital of the company shall be liable to contribute for the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day prior to such registration, and on the company being wound up, the court, on the application of such creditor, and on proof that he was ignorant of the proceedings taken with a view to the reduction, or of their nature and effect with respect to his claim, may, if it think fit, settle a list of such contributories accordingly, and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding up; but the provisions of this section shall not affect the rights of the contributories of the company among themselves.

Copy of registered

15 A minute when registered shall be embodied in every copy of the memorandum of association issued after its registration, and if any company makes default in complying with the provisions of this section, it shall incur a penalty not exceeding ten rupees for each copy in respect of which such default is made, and every director and manager of the company who shall knowingly and wilfully authorize or permit such default shall incur the like penalty.

Penalty on concealment of name of creditor.

16 If any director, manager, or officer of the company wilfully conceals the name of any creditor of the company who is entitled to object to the proposed reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the company, or if any director or manager of the company aids or abets in, or is privy to any such concealment or misrepresentation as aforesaid, every such director, manager, or officer shall be guilty of an offence and shall be punishable by such punishment as the court before which a conviction therefor shall be obtained shall award.

Power to make rules extended to making rules concerning matters in this Ordinance.

17 The powers of making rules concerning winding up conferred on the judges of the Supreme Court by the 104th section of the principal Ordinance shall respectively extend to making rules concerning matters in which jurisdiction is by this Ordinance given to the court which has the power of making an order to wind up a company; and until such rules are made the practice of the court in matters of the same nature shall, so far as the same is applicable, be followed.

Power to reduce capital by the cancellation of unissued shares.

18 Any company limited by shares may so far modify the conditions contained in its memorandum of association, if authorized so to do by its regulations as originally framed, or as altered by special resolution, as to reduce its capital by cancelling any shares which at the date of the passing of such resolution have not been taken, or agreed to be taken, by any person, and the provisions hereinbefore contained shall not apply to any reduction of capital made in pursuance of this section.

Provision for the reception in evidence of certified copies of certificates of incorporation and other documents.

19 And whereas it is expedient to make provision for the reception as legal evidence of certificates of incorporation other than the original certificates, and of certified copies of extracts from any documents filed and registered under "The Joint Stock Companies' Ordinances, 1861 and 1888:" Be it enacted that any certificate of the incorporation of any company given by the registrar for the time being shall be received in evidence as if it were the original certificate, and any copy of, or extract from, any of the documents or part of the documents kept and registered at the office for the registration of joint stock companies, if duly certified to be a true copy under the hand of the registrar for the time being, and whom it shall not be necessary to prove to be the registrar, shall in all legal proceedings, civil or criminal, and in all cases whatsoever, be received in evidence as of equal validity with the original document.

11th December, 1888.

No. 7 of 1888.

An Ordinance to raise a Loan of Four hundred and fifty thousand Pounds Sterling for the Construction of Lines of Railway from Nanu-oya to Haputale and from Kalutara to Bentota, and to apply the unexpended balance of the Loan raised under the Ordinance No. 9 of 1878 to the Construction of the Lines of Railway from Nanu-oya to Haputale and from Kalutara to Bentota.

Preamble.

WHEREAS it is expedient to raise a loan not exceeding four hundred and fifty thousand pounds sterling for the purpose of constructing lines of railway from Nánu-oya to Haputalé and from Kalutara to Bentoṭa: And whereas out of the sum of one million pounds sterling raised by debentures under "The Nánu-oya Railway Ordinance, 1878," there remains an unexpended balance, and it is expedient to apply so much of the said balance as may not be required for the purposes specified in section 2 of the said Ordinance, to the construction of the said lines of railway from Nánu-oya to Haputalé and from Kalutara to Bentoṭa: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

To be read, with the exception of sections 5 and 6, as one with Ordinance No. 19 of 1884.

1 This Ordinance, save and except sections 5 and 6 thereof, and Ordinance No. 19 of 1884, intituled "An Ordinance to declare the terms and conditions applicable to loans authorized to be raised by the Government of Ceylon, and to provide for the creation of Ceylon Inscribed Stock," shall be construed and read as one Ordinance.

Authority to Governor to borrow by sale of debentures or inscribed stock.

2 The Governor is hereby authorized to borrow a sum not exceeding four hundred and fifty thousand pounds sterling, British money, by the sale of debentures or by the sale of inscribed stock, or partly by the sale of debentures and partly by the sale of inscribed stock, under the provisions of "The General Loan and Inscribed Stock Ordinance, 1884."

Proceeds of loan to be applied to construction of railways from Nánu-oya to Haputalé and from Kalutara to Bentota.

3 The proceeds arising from such loan shall be applied to the construction of lines of railway from Nánu-oya to Haputalé and from Kalutara to Bentoṭa.

Contributions to sinking fund when to commence.

4 The contributions to the sinking fund as contemplated in sections 10 and 24 of "The General Loan and Inscribed Stock Ordinance, 1884," for the repayment of the said sum of four hundred and fifty thousand pounds sterling, British money, hereby authorized to be borrowed, shall commence after the expiration of three years from the date on which the interest on the first debentures or inscribed stock to be issued under this Ordinance shall begin to run.

Unexpended balance of loan under Ordinance No. 9 of 1878 to be applied to Haputalé and Bentota extensions.

5 It shall be lawful for the Governor to apply so much of the balance of the sum of one million pounds sterling raised by debentures for the construction of a railway from Náwalapiṭiya to Nánu-oya as may not be required for the purposes specified in section 2 of the Ordinance No. 9 of 1878, to the construction of the said lines of railway from Nánu-oya to Haputalé and from Kalutara to Bentoṭa.

Repeal.

6 The Ordinance No. 2 of 1886 is hereby repealed.

11th December, 1888.

No. 13 of 1888.

(*As amended by No. 14 of 1892.*)

An Ordinance to amend the Law relating to Fraudulent Marks on Merchandise.

Preamble.

WHEREAS it is expedient to amend the law relating to fraudulent marks on merchandise: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title. Commencement.

1 This Ordinance may be cited as "The Merchandise Marks Ordinance, 1888;" and it shall come into operation at such time as the Governor shall appoint by Proclamation* to be published in the *Government Gazette.*

Repeal of Ordinance No. 5 of 1865 and of certain sections of the Ceylon Penal Code.

2 The Ordinance No. 5 of 1865, intituled "An Ordinance relating to the fraudulent marking of Merchandise," so far as the same has not been repealed by "The Criminal Procedure Code, 1883," and sections 467 and 469 and so much of sections 471, 472, 474, and 475 of the Ceylon Penal Code as relate to trade marks, are hereby repealed; and any unrepealed enactment referring to any enactment so repealed shall be construed to apply to the corresponding provisions of this Ordinance: Provided that this repeal shall not affect—

(*a*) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; nor

(*b*) The institution or continuance of any proceeding or other remedy under any enactment so repealed for the recovery of any penalty incurred, or for the punishment of any offence committed, before the commencement of this Ordinance; nor

(*c*) Any right, privilege, liability, or obligation acquired, accrued, or incurred under any enactment hereby repealed.

Offences as to trade marks and trade descriptions.

3 (1) Every person who—

(*a*) Forges any trade mark; or

(*b*) Falsely applies to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive; or

(*c*) Makes any die, block, machine, or other instrument for the purpose of forging, or of being used for forging, a trade mark; or

(*d*) Applies any false trade description to goods; or

(*e*) Disposes of, or has in his possession, any die, block, machine, or other instrument for the purpose of forging a trade mark; or

(*f*) Causes any of the things above in this section mentioned to be done,

shall, subject to the provisions of this Ordinance, and unless he proves that he acted without intent to defraud, be guilty of an offence against this Ordinance.

* Proclaimed the 25th day of March, 1889.

(2) Every person who sells, or exposes for, or has in his possession for, sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, shall, unless he proves—

(*a*) That having taken all reasonable precautions against committing an offence against this Ordinance he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the trade mark, mark, or trade description; and

(*b*) That on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or

(*c*) That otherwise he had acted innocently;

be guilty of an offence against this Ordinance.

Offences as to trade marks and trade descriptions. [§ *1, 14 of 1892*]

2 (*a*) Every person who imports any piece-goods ordinarily sold by length or by the piece, manufactured beyond the limits of the colony, or who sells, or exposes for, or has in his possession for, sale, or any purpose of trade, any piece-goods ordinarily sold as aforesaid, whether manufactured within or beyond the limits of the colony, which have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, shall be guilty of an offence against this Ordinance.

Provided always that nothing in this sub-section contained shall apply to any piece-goods manufactured within the limits of the colony by hand labour only.

(3) Every person charged with an offence against this Ordinance may be tried by the district court or police court, and shall be liable—

(i) On conviction by the district court, to simple or rigorous imprisonment for a term not exceeding two years, or to fine not exceeding one thousand rupees, or to both imprisonment and fine; and

(ii) On summary conviction by the police court, to simple or rigorous imprisonment for a term not exceeding three months, or to a fine not exceeding one hundred rupees; and in the case of a second or subsequent conviction to simple or rigorous imprisonment for a term not exceeding six months, or to a fine not exceeding five hundred rupees; and

(iii) In any case, to forfeit to Her Majesty every chattel, article, instrument, or thing by means of or in relation to which the offence has been committed.

(4) The court before whom any person is convicted under this section may order any forfeited articles to be destroyed or otherwise disposed of as the court thinks fit.

(5) It shall be lawful for a police court, in the case of a second or subsequent summary conviction, to inflict the full amount of fine hereinbefore provided, anything in section 16 of "The Criminal Procedure Code, 1883," to the contrary notwithstanding: Provided that a person charged with an offence under this section before a police court shall, on appearing before the court, and before the charge is gone into, be informed of his right to be tried by the district court, and, if he requires, be so tried accordingly.

Definitions.

4 (1) For the purposes of this Ordinance—

The expression "trade mark" means a trade mark registered in the register of trade marks kept under "The Trade Marks Ordinance, 1888," and includes any trade mark which is registered in the register of trade marks kept under "The Patents, Designs, and Trade Marks Act, 1883" (46 & 47 Victoria, chapter 57), and any trade mark which, either with or without registration, is protected by law in any British possession or foreign State to which the provisions of the 103rd section of "The Patents, Designs, and Trade Marks Act, 1883," are, under Her Majesty's Order in Council, for the time being applicable;

The expression "trade description" means any description, statement, or other indication, direct or indirect—

(*a*) As to the number, quantity, measure, gauge, or weight of any goods; or

(*b*) As to the place or country in which any goods were made or produced; or

(*c*) As to the mode of manufacturing or producing any goods; or

(*d*) As to the material of which any goods are composed; or

(*e*) As to any goods being the subject of an existing patent, privilege, or copyright;

and the use of any figure, word, or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this Ordinance;

The expression "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect; and the fact that a trade description is a trade mark or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this Ordinance;

The expression "goods" means anything which is the subject of trade, manufacture, or merchandise;

The expressions "person," "manufacturer, dealer, or trader," and "proprietor" include any body of persons corporate or unincorporate;

The expression "name" includes any abbreviation of a name.

(2) The provisions of this Ordinance respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

(3) The provisions of this Ordinance respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description; and for the purpose of this enactment the expression "false name or initials" means, as applied to any goods, any name or initials of a person which—

(*a*) Are not a trade mark, or part of a trade mark; and

(*b*) Are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials; and

(*c*) Are either those of a fictitious person or of some person not *bonâ fide* carrying on business in connection with such goods.

(4) A trade description which denotes or implies that there are contained in any goods to which it is applied more yards, feet, or inches than there are, contained therein, standard yards, standard feet, or standard inches, is a false trade description.

Forging trade mark.

5 A person shall be deemed to forge a trade mark who either—

(*a*) Without the assent of the proprietor of the trade mark makes that trade mark or a mark so nearly resembling that mark as to be calculated to deceive; or

(*b*) Falsifies any genuine trade mark, whether by alteration, addition, effacement, or otherwise;

and any trade mark or mark so made or falsified is in this Ordinance referred to as a forged trade mark.

Provided that in any prosecution for forging a trade mark the burden of proving the assent of the proprietor shall lie on the defendant.

Applying marks and descriptions.

6 (1) A person shall be deemed to apply a trade mark, or mark, or trade description to goods who—

(*a*) Applies it to the goods themselves ; or

(*b*) Applies it to any covering, label, reel, or other thing in or with which the goods are sold or exposed, or had in possession for any purpose of sale, trade, or manufacture ; or

(*c*) Places, encloses, or annexes any goods which are sold or exposed, or had in possession for any purpose of sale, trade, or manufacture, in, with, or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied ; or

(*d*) Uses a trade mark, or mark, or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark, or mark, or trade description.

(2) The expression "covering" includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame, or wrapper; and the expression "label" includes any band or ticket.

A trade mark, or mark, or trade description shall be deemed to be applied whether it is woven, impressed, stamped, branded, or otherwise worked into, or annexed, or affixed to the goods, or to any covering, label, reel, or other thing.

(3) A person shall be deemed to falsely apply to goods a trade mark or mark who, without the assent of the proprietor of a trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive; but in any prosecution for falsely applying a trade mark or mark to goods, the burden of proving the assent of the proprietor shall lie on the defendant.

Exemption of certain persons employed in ordinary course of business.

7 Where a defendant is charged with making any die, block, machine, or other instrument for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark or any mark so nearly resembling a trade mark as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves—

(*a*) That in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines, or other instruments for making, or being used in making, trade marks, or as the case may be, to apply marks or descriptions to goods, and that in the case which is the subject of the charge he was so employed by some person resident in this colony, and was not interested in the goods by way of profit or commission dependent on the sale of such goods ; and

(*b*) That he took reasonable precautions against committing the offence charged; and

(*c*) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark, or trade description; and

(*d*) That he gave to the prosecutor all the information in his power with respect to the person on whose behalf the trade mark, mark, or description was applied—

he shall be discharged from the prosecution, but shall be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

Application of Ordinance to watches.

8 Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting, a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall, *primâ facie*, be deemed to be a description of that country within the meaning of this Ordinance; and the provisions of this Ordinance with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for, or having in possession for, sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly; and for the purposes of this section the expression "watch" means all that portion of a watch which is not the watch case.

Trade mark how described in pleading.

9 In any indictment, charge, proceeding, or document in which any trade mark or forged trade mark is intended to be mentioned, it shall be sufficient, without further description and without any copy or facsimile, to state that trade mark or forged trade mark to be a trade mark or forged trade mark.

Rules as to evidence.

10 In any prosecution for an offence against this Ordinance—

(1) A defendant, and his wife or her husband, as the case may be, may, if the defendant thinks fit, be called as a witness, and, if called, shall be sworn and examined, and may be cross-examined and re-examined in like manner as any other witness.

(2) In the case of imported goods, evidence of the port of shipment shall be *primâ facie* evidence of the place or country in which the goods were made or produced.

Punishment of accessories.

11 Any person who, being within this colony, abets the commission, without this colony, of any act which, if committed in this colony, would under this Ordinance be an offence, shall be deemed guilty of that offence, and be liable to be indicted, proceeded against, tried, and convicted in any district or place in this colony in which he may be, as if the offence had been there committed.

Search warrant.

12 (1) Where, upon information of an offence against this Ordinance, a magistrate has issued either a summons requiring the defendant charged by such information to appear to answer to the same, or a warrant for the arrest of such defendant, and either the said magistrate on or after issuing the summons or warrant, or any other magistrate, is satisfied by information on oath that there is reasonable cause to suspect that any goods or things by means of, or in relation to, which such offence has been committed are in any house or premises of the defendant, or otherwise in his possession or under his control, in any place, such magistrate may issue a warrant under his hand, by virtue of which it shall be lawful for any police officer, or other person named or referred to in the warrant, to enter such house, premises, or place at any reasonable time by day, and to search there for and seize and take away those goods or things; and any goods or things seized under any such warrant shall be brought before a police court for the purpose of its being determined whether the same are or are not liable to forfeiture under this Ordinance.

(2) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this Ordinance, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and a police court may cause notice to be advertised stating that, unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be forfeited, and at such time and place the court, unless the owner or any person on his behalf, or other person interested in the goods or things, shows sufficient cause to the contrary, may order such goods or things or any of them to be forfeited; and every such order shall be subject to appeal.

(3) Any goods or things forfeited under this section, or under any other provision of this Ordinance, may be destroyed or otherwise disposed of in such manner as the court by which the same are forfeited may direct; and the court may, out of any proceeds which may be realized by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

Costs of defence and of prosecution.

13 On any prosecution under this Ordinance the court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given by, and the conduct of, the defendant and prosecutor respectively, and the sum so awarded as costs shall be recoverable as if it were a fine.

Limitation of prosecution

14 No prosecution for an offence against this Ordinance shall be commenced after the expiration of three years next after the commission of the offence or one year next after the first discovery thereof by the prosecutor, whichever expiration first happens.

15 Whereas it is expedient to make further provision for prohibiting the importation of goods which, if sold, would be liable to forfeiture under this Ordinance: Be it therefore enacted as follows:

Prohibition on importation.

(1) All such goods, and also all goods made or produced beyond the limits of the United Kingdom and this colony, and having applied thereto any name or trade mark being, or purporting to be, or being a colourable imitation of, the name or trade mark of any manufacturer, dealer, or trader in the United Kingdom or this colony, unless such name or trade mark is accompanied by a definite indication, indicated in letters as large and conspicuous as any letter in the name or trade mark, of the place and country in which the goods were made or produced, *and also all piece-goods such as are ordinarily sold by the length or by the piece, which have not conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece*, are hereby prohibited to be imported into this colony, and, subject to the provisions of this section, shall be included among goods prohibited to be imported as if they were referred to in section 36 of the Customs Ordinance, No. 17 of 1869, and included in schedule C to the Ordinance No. 14 of 1871. [§ 2, *14 of 1892*]

(2) Before detaining any such goods, or taking any further proceedings with a view to the forfeiture thereof under the law relating to the customs, the collector of customs, or other officer specially appointed in this behalf by the Governor, may require the regulations under this section, whether as to information, security, conditions, or other matters, to be complied with, and may satisfy himself in accordance with those regulations that the goods are such as are prohibited by this section to be imported.

(3) The Principal Collector of Customs may from time to time, with the sanction of the Governor in Executive Council, make, revoke, and vary regulations, either general or special, respecting the detention and forfeiture of goods the importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture; and may by such regulations determine the information, notices, and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

(4) Where there is on any goods a name which is identical with, or a colourable imitation of, the name of a place in the United Kingdom or this colony, that name, unless accompanied in equally large and

conspicuous letters by the name of the country in which such place is situate, shall be treated, for the purposes of this section, as if it were the name of a place in the United Kingdom or this colony.

(5) Such regulations may apply to all goods the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods or of offences in relation to such goods.

(6) The regulations may provide for the informant reimbursing the collector of customs all expenses and damages incurred in respect of any detention made on his information and of any proceedings consequent on such detention.

(7) All regulations under this section shall be published in the *Government Gazette.*

Implied warranty on sale of marked goods.

16 On the sale or in the contract for the sale of any goods to which a trade mark, or mark, or trade description has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade mark, and not forged or falsely applied, or that the trade description is not a false trade description within the meaning of this Ordinance, unless the contrary is expressed in some writing signed by or on behalf of the vendor and delivered at the time of the sale or contract to, and accepted by, the vendee.

Provisions as to false description not to apply in certain cases.

17 Where, at the passing of this Ordinance, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this Ordinance with respect to false trade descriptions shall not apply to such trade description when so applied: Provided that where such trade description includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, this section shall not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner, with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

Savings.

18 (1) This Ordinance shall not exempt any person from any action, suit, or other proceeding which might, but for the provisions of this Ordinance, be brought against him.

(2) Nothing in this Ordinance shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Ordinance.

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(3) Nothing in this Ordinance shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in this colony who *bonâ fide* acts in obedience to the instructions of such master, and, on demand made by or on behalf of the prosecutor, has given full information as to his master.

False representation as to royal warrant.

19 Any person who falsely represents that any goods are made by a person holding a royal warrant, or for the service of Her Majesty, or any of the Royal Family, or any Government Department, shall be liable, on summary conviction, to a penalty not exceeding one hundred rupees.

Offences cognizable and bailable.

20 All offences under this Ordinance are hereby declared to be "cognizable" and "bailable," within the meaning of those terms as defined in section 3 of "The Criminal Procedure Code, 1883."

22nd December, 1888.

No. 14 of 1888.

(*As amended by No. 4 of 1890.*)

An Ordinance providing for the Registration of Trade Marks.

Preamble.

WHEREAS it is expedient to provide for the registration of trade marks in this island: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows:

Short title. Commencement.

1 This Ordinance may be cited as "The Trade Marks Ordinance, 1888;" and it shall come into operation at such time as the Governor shall appoint by Proclamation * to be published in the *Government Gazette.*

Preliminary.

Interpretation clause:

2 In and for the purposes of this Ordinance, unless the context otherwise requires—

"Person." "Person" includes a body corporate.

"Colonial Secretary." "Colonial Secretary" includes any assistant to the Colonial Secretary to the extent to which he may be authorized by general or special order of the Governor to discharge the functions of the Colonial Secretary under this Ordinance.

"Prescribed." "Prescribed" means prescribed by the schedule to this Ordinance or by general rules under or within the meaning of this Ordinance.

"The court." "The court" means the district court of Colombo.

"Trade mark." [§ *1, 4 of 1890*]

2 (1) A "trade mark" must consist of or contain at least one of the following essential particulars:

(*a*) A name of an individual or firm printed, impressed, or woven in some particular and distinctive manner; or

(*b*) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or

* Proclaimed the 25th day of March, 1889.

(*c*) A distinctive device, mark, stamp, brand, heading, label, or ticket; or

(*d*) An invented word or invented words; or

(*e*) A word or words having no reference to the character or quality of the goods, and not being a geographical name.

(2) There may be added to any one or more of the essential particulars mentioned in sub-section 1 any letters, words, or figures, or combination of letters, words, or figures, or any of them, but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered in the register.

(3) Provided as follows:

(*a*) A person need not under sub-section 2 disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof.

(*b*) Any special and distinctive word or words, letter, figure, or combination of letters and figures used as a trade mark before the coming into operation of this Ordinance may be registered as a trade mark under this Ordinance.

Registration of Trade Marks.

Application for registration.

3 (1) Any person claiming to be the proprietor of a trade mark may by himself or his agent apply to the Colonial Secretary for an order for the registration thereof.

(2) The application must be made in the prescribed form, and must be accompanied by not less than three representations of the trade mark.

(3) The applicant must state the particular goods or classes of goods in connection with which he desires the trade mark to be registered.

(4) The application must be left with, or sent by post to, the Colonial Secretary.

(5) The date of the delivery or receipt of the application shall be endorsed thereon, and recorded in the Colonial Secretary's office.

[§ 2, 4 *of 1890*]

(6) When an applicant for the registration of a trade mark is out of the island at the time of making the application, he shall give the Colonial Secretary an address for service in the island, and if he fails to do so the application shall not be proceeded with until the address has been given.

Colonial Secretary may make order for registration.

4 (1) Upon such application as aforesaid, the Colonial Secretary may, after such inquiry as he thinks fit, and subject to the provisions hereinafter contained, make an order authorizing the registration of the trade mark.

(2) When an order has been made under this section, the Colonial Secretary shall cause the trade mark to be registered in a book to be kept by him for that purpose, and to be called the register of trade marks.

(3) The date of registration shall be recorded in the said register.

Limit of time for proceeding with application.

5 Where registration of a trade mark shall not be completed within twelve months from the date of the application, by reason of default on the part of the applicant, *the Colonial Secretary shall give notice of the non-completion to the applicant or to his agent, and if at the expiration of fourteen days from that notice, or of such further time as the Colonial Secretary may in special cases permit, the registration is not completed, the application shall be deemed to be abandoned.* [§ 3, 4 of 1890]

Connection of trade mark with goods.

6 A trade mark must be registered for particular goods or classes of goods.

Registration of a series of marks.

7 When a person claiming to be the proprietor of several trade marks, which, while resembling each other in the material particulars thereof, yet differ in respect of (*a*) the statement of the goods for which they are respectively used or proposed to be used, or (*b*) statements of numbers, or (*c*) statements of price, or (*d*) statements of quality, or (*e*) statements of names of places, seeks to register such trade marks, they may be registered as a series in one registration. A series of trade marks shall be assignable and transmissible only as a whole, but for all other purposes each of the trade marks composing a series shall be deemed and treated as registered separately.

Trade marks may be registered in any colour.

8 A trade mark may be registered in any colour *or colours*, and such registration shall, subject to the provisions of this Ordinance, confer on the registered owner the exclusive right to use the same in that or any other colour *or colours.* [§ 4, 4 of 1890]

Advertisement of application.

9 Every application for registration of a trade mark under this Ordinance shall, as soon as may be after its receipt, be advertised by the Colonial Secretary in the *Government Gazette* and in one or more of the local newspapers, *unless the Colonial Secretary refuse to entertain the application.* [§ 5, 4 of 1890]

Opposition to registration.

10 (1) Any person may, within *one month, or such further time, not exceeding three months, as the Colonial Secretary may allow*, of the advertisement of the application, give notice in duplicate to the Colonial Secretary of opposition to registration of the trade mark, and the Colonial Secretary shall send one copy of such notice to the applicant. [§ 6, 4 of 1890]

(2) Within *one month* after receipt of such notice, or such further time as the Colonial Secretary may allow, the applicant may send to the Colonial Secretary a counter-statement in duplicate of the grounds on which he relies for his application; and if he does not do so shall be deemed to have abandoned his application. [§ 6, 4 of 1890]

(3) If the applicant sends such counter-statement, the Colonial Secretary shall furnish a copy thereof to the person who gave notice of opposition, and shall require him to give security in such manner and to such amount as the Colonial Secretary may require for such costs as may be awarded in respect of such opposition; and if such security is not given within fourteen days after such requirement was made or such further time as the Colonial Secretary may allow, the opposition shall be deemed to be withdrawn.

(4) If the person who gave notice of opposition duly gives such security as aforesaid, the Colonial Secretary shall inform the applicant thereof in writing, and thereafter the case shall be deemed to stand for the determination of the court.

[§ 6, 4 of 1890]

(5) If the applicant abandons his application after notice of opposition in pursuance of this section, he shall be liable to pay to the opponent such costs in respect of the opposition as the Colonial Secretary may determine to be reasonable.

(6) Where the opponent is out of the island he shall give the Colonial Secretary an address for service in the island.

Case how brought before court.

11 (1) When a case stands for the determination of the court under the provisions of the last preceding section, the Colonial Secretary shall require the applicant, within one month or such further time as the Colonial Secretary may allow, to make a written application to the court for an order that, notwithstanding the opposition of which notice has been given, the registration of the trade mark be proceeded with by the Colonial Secretary, or to take such other proceedings as may be proper and necessary for the determination of the case by the court.

(2) The applicant shall thereupon make his application or take such other proceedings as aforesaid, within the period of one month above named, or such further time as the Colonial Secretary may allow, and shall also within the like period give notice thereof to the Colonial Secretary.

(3) If the applicant shall fail to make such application or to take such other proceedings, of which failure the non-receipt by the Colonial Secretary of the said notice shall be sufficient proof, the applicant shall be deemed to have abandoned his application.

Assignment and transmission of trade mark.

12 A trade mark when registered shall be assigned and transmitted only in connection with the good-will of the business concerned in the particular goods or classes of goods for which it has been registered, and shall be determinable with that good-will.

Conflicting claims to registration.

13 Where each of several persons claims to be registered as proprietor of the same trade mark, the Colonial Secretary may refuse to register any of them until their rights have been determined according to law; and the Colonial Secretary may require the claimants to submit their rights to the court.

Submission to court of conflicting claims.

14 The manner in which the rights of such claimants may be submitted to the court shall, unless the court otherwise order, be by a special case, and such special case, which shall be subject to a stamp duty of one rupee, shall be filed and proceeded with in like manner as any other special case submitted to the court, or in such other manner as the court may direct. The special case may be agreed to by the claimants, or if they differ may be settled by the Colonial Secretary on payment of the prescribed fee.

Settlements of special case.

Restrictions on registration.

15 (1) Except where the court has decided that two or more persons are entitled to be registered as proprietors of the same trade mark, the Colonial Secretary shall not register in respect of the same goods or description of goods a trade mark identical with one already on the register with respect to such goods or description of goods.

(2) *Except as aforesaid*, the Colonial Secretary shall not register with respect to the same goods or description of goods a trade mark *having such resemblance to* a trade mark already on the register with respect to such goods or description of goods as to be calculated to deceive. [§ 7, *4 of 1890*]

Further restriction on registration.

16 It shall not be lawful to register as part of, or in combination with, a trade mark any words the use of which would, by reason of their being calculated to deceive or otherwise, be deemed disentitled to protection in a court of justice, or any scandalous design.

Power to provide for entry on register of common marks as addition to trade marks.

17 (1) Nothing in this Ordinance shall be construed to prevent the Colonial Secretary entering on the register, in the prescribed manner, and subject to the prescribed conditions, as an addition to any trade mark—

(*a*) In the case of an application for registration of a trade mark used before the coming into operation of this Ordinance, any distinctive device, mark, stamp, brand, heading, label, ticket, letter, word, or figure, or combination of letters, words, or figures, though the same is common to the trade in the goods with respect to which the application is made;

(*b*) In the case of an application for registration of a trade mark not used before the coming into operation of this Ordinance, any distinctive word or combination of words, though the same is common to the trade in the goods with respect to which the application is made.

(2) The applicant for registration of any such addition must, however, state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register. [§ 9, *4 of 1890*]

Provided that a person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business, but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof.

(3) Any device, mark, stamp, brand, heading, label, ticket, letter, word, figure, or combination of letters, words, or figures, which was or were, before the coming into operation of this Ordinance, publicly used by more than three persons on the same or a similar description of goods, shall, for the purposes of this section, be deemed common to the trade in such goods.

Effect of Registration.

Effect of application for registration.
[§ *10, 4 of 1890*]

18 Application for registration of a trade mark shall be deemed to be equivalent to public use of the trade mark, and the date of the application shall, for the purposes of this Ordinance, be deemed to be, and as from the twenty-second day of December, one thousand eight hundred and eighty-eight, to have been the date of the registration.

Right of first proprietor to exclusive use of trade mark.

19 The registration of a person as proprietor of a trade mark shall be *primâ facie* evidence of his right to the exclusive use of the trade mark, and shall, after the expiration of five years from the date of the registration, be conclusive evidence of his right to the exclusive use of the trade mark, subject to the provisions of this Ordinance.

Restrictions on actions for infringement, and on defence to action in certain cases.

20 A person shall not be entitled to institute any proceeding in a civil court to prevent or to recover damages for the infringement of a trade mark, unless, in the case of a trade mark capable of being registered under this Ordinance, it has been registered in pursuance of this Ordinance; or, in the case of any other trade mark in use before the coming into operation of this Ordinance, registration thereof, under this Ordinance, has been refused. The Colonial Secretary may, on request, and on payment of the prescribed fee, grant a certificate that such registration has been refused.

Certificate as to exclusive use, and costs thereon.
[§ *11, 4 of 1890*]

20 (*a*) In an action for infringement of a registered trade mark the court or a judge may certify that the right to the exclusive use of the trade mark came in question, and if the court so certifies, then in any subsequent action for infringement the plaintiff in that action, on obtaining a final order or judgment in his favour, shall have his full costs, charges, and expenses, as between proctor and client, unless the court trying the subsequent action certifies that he ought not to have the same.

Register of Trade Marks.

Register of trade marks.

21 There shall be kept at the Colonial Secretary's office a book called the register of trade marks, wherein shall be entered the names and addresses of proprietors of registered trade marks, notifications of assignments, and of transmissions of trade marks, and such other matters as may be from time to time prescribed.

Removal of trade marks after fourteen years unless fee paid.

22 (1) At a time not being less than two months nor more than three months before the expiration of fourteen years from the date of the registration of a trade mark, the Colonial Secretary shall send notice to the registered proprietor that the trade mark will be removed from the register unless the proprietor pays to the Colonial Secretary before the expiration of such fourteen years (naming the date at which the same will expire) the prescribed fee; and if such fee be not previously paid, the Colonial Secretary shall, at the expiration of one month from the date of the giving of the first notice, send a second notice to the same effect.

(2) If such fee be not paid before the expiration of such fourteen years, the Colonial Secretary may, after the end of three months from the expiration of such fourteen years, remove the mark from the register; and so from time to time at the expiration of every period of fourteen years.

(3) If before the expiration of the said three months the registered proprietor pays the said fee together with the additional prescribed fee, the Colonial Secretary may, without removing such trade mark from the register, accept the said fee as if it had been paid before the expiration of the said fourteen years.

(4) Where after the said three months a trade mark has been removed from the register for non-payment of the prescribed fee, the Colonial Secretary may, if satisfied that it is just so to do, restore such trade mark to the register on payment of the prescribed additional fee.

(5) Where a trade mark has been removed from the register for non-payment of the fee, or otherwise, such trade mark shall, nevertheless, for the purpose of any application for registration during *one year* next after the date of such removal, be deemed to be a trade mark which is already registered, *unless it is shown to the satisfaction of the Colonial Secretary that the non-payment of the fee arises from the death or bankruptcy of the registered proprietor, or from his having ceased to carry on business, and that no person claiming under that proprietor or under his bankruptcy is using the trade mark.* [§ *12, 4 of 1890*]

General.

Trust not to be entered in register.

23 There shall not be entered in the register kept under this Ordinance, or be receivable by the Colonial Secretary, any notice of any trust expressed, implied, or constructive.

Refusal to register in certain cases.

24 The Colonial Secretary may refuse to register a trade mark of which the use would, in his opinion, be contrary to law or morality.

Entry of assignments and transmissions in register.

25 Where a person becomes entitled by assignment, transmission, or other operation of law to a registered trade mark, the Colonial Secretary shall, on request, and on proof of title to his satisfaction, cause the name of such person to be entered as proprietor of the trade mark in the register of trade marks. The person for the time being entered in the register of trade marks as proprietor of a trade mark shall, subject to *the provisions of this Ordinance and to* any rights appearing from such register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the same, and to give effectual receipts for any consideration for such assignment, license, or dealing. Provided that any equities in respect of such trade mark may be enforced in like manner as in respect of any other personal property. [§ *13, 4 of 1890*]

Inspection of and extracts from register.

26 The register kept under this Ordinance shall at all convenient times be open to the inspection of the public, subject to *the provisions of this Ordinance and to* such regulations as may be prescribed; and certified copies, sealed with the seal of the Colonial Secretary's office, of any entry in any such register shall be given to any person requiring the same, on payment of the prescribed fee. [§ *14, 4 of 1890*]

Sealed copies to be received in evidence.

27 Printed or written copies or extracts purporting to be certified by the Colonial Secretary, and sealed with the seal of the Colonial Secretary's office, of or from any document, register, and other book filed or kept under this Ordinance in the said office, shall be admitted in evidence in all courts in this colony, and in all proceedings, without further proof or production of the originals.

Rectification of register by court.

28 (1) The court may, on the application of any person aggrieved by the omission without sufficient cause of the name of any person from the register kept under this Ordinance, or by any entry made without sufficient cause in any such register, make such order for making, expunging, or varying the entry as the court thinks fit; or the court may refuse the application; and in either case may make such order with respect to the costs of the proceedings as the court thinks fit.

(2) The court may in any proceeding under this section decide any question that it may be necessary or expedient to decide for the rectification of a register, and may direct an issue to be tried for the decision of any question of fact, and may award damages to the party aggrieved.

(3) Any order of the court rectifying a register shall direct that due notice of the rectification be given to the Colonial Secretary.

Power to correct clerical errors

29 The Colonial Secretary may, on request in writing, accompanied by the prescribed fee—

(*a*) Correct any clerical error in or in connection with an application for the registration of a trade mark; or

(*b*) Correct any clerical error in the name, style, or address of the registered proprietor of a trade mark; or

(*c*) Cancel the entry or part of the entry of a trade mark on the register: Provided that the applicant accompanies his request by an affidavit made by himself, stating his name, address, and calling, and that he is the person whose name appears on the register as the proprietor of the said trade mark.

[§ *15, 4 of 1890*]

(*d*) Permit an applicant for registration of a trade mark to amend his application by omitting any particular goods or classes of goods in connection with which he has desired the trade mark to be registered

Alteration of registered trade mark

30 (1) The registered proprietor of any registered trade mark may apply to the court for leave to add to or alter such mark in any particular, not being an essential particular within the meaning of this Ordinance; and the court may refuse or grant leave on such terms as it may think fit.

(2) Notice of any intended application to the court under this section shall be given to the Colonial Secretary by the applicant; and the Colonial Secretary shall be entitled to be heard on the application.

(3) If the court grants leave, the Colonial Secretary shall, on proof thereof, and on payment of the prescribed fee, cause the register to be altered in conformity with the order of leave.

Applications to be stamped.

31 Every application made to the court under section 11, 28, or 30 shall be subject to a stamp duty of one rupee, and all proceedings thereunder shall be conducted in such manner as the court may direct.

Stamp duties.

32 The minimum stamp duties chargeable in the district courts in civil proceedings under the provisions of the Ordinance for the time being in force relating to stamps shall, so far as the same may be applicable and except as herein otherwise provided, be charged in all proceedings in the court under this Ordinance. But in no case shall the Colonial Secretary be required to use any stamp or be charged with any stamp duty.

Appeal.

33 Every judgment or order by the district court under this Ordinance shall be subject to an appeal to the Supreme Court, and such appeal shall be subject to the same rules which govern interlocutory appeals from district courts; and the minimum stamp duties chargeable in the Supreme Court under the provisions of the Ordinance for the time being in force relating to stamps shall, so far as the same may be applicable, be charged in all proceedings relating to or in connection with such appeal.

Exercise of discretionary power by Colonial Secretary.

34 Where any discretionary power is by this Ordinance given to the Colonial Secretary, he shall not exercise that power adversely to the applicant for registration of a trade mark without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard personally or by his agent.

Colonial Secretary may take directions of law officers.

35 The Colonial Secretary may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Ordinance, apply to the Attorney-General or Solicitor-General for directions in the matter.

Certificate of Colonial Secretary to be evidence.

36 A certificate purporting to be under the hand of the Colonial Secretary as to any entry, matter, or thing which he is authorized by this Ordinance, or any general rules made thereunder, to make or do, shall be *primâ facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone.

Applications and notices by post.

37 (1) Any application, notice, or other document authorized or required to be left with or sent to the Colonial Secretary, or to any other person under this Ordinance, may be sent by a registered letter through the post; and if so sent shall be deemed to have been so left or given respectively at the time when the letter containing the same would be delivered in the ordinary course of post.

(2) In proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and registered at the post office.

Provision as to public holidays.

38 Whenever the last day fixed by this Ordinance, or by any rule for the time being in force, for leaving any document with, or paying any fee to the Colonial Secretary, shall fall on a public holiday, it shall be lawful to leave such document or to pay such fee on the day next following such public holiday, or holidays if two or more of them occur consecutively.

Case of infant, lunatic, &c.

39 If any person is, by reason of infancy, lunacy, or other inability, incapable of making any affidavit or doing any thing required or permitted by this Ordinance, or by any rules made under the authority of this Ordinance, then the guardian of such incapable person, or if there be none, any person appointed by any court possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making of such affidavit or doing such thing, may make such affidavit, or an affidavit as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person; and all acts done by such substitute shall, for the purposes of this Ordinance, be as effectual as if done by the person for whom he is substituted.

[§ *16, 4 of 1890*]

39 (*a*) There shall be paid, in respect of applications and registration and other matters under this Ordinance, such fees as may from time to time be prescribed by the Governor in Executive Council.

Governor may make rules, &c., under this Ordinance.

40 (1) The Governor in Executive Council may from time to time make such general rules, prescribe such forms, and do such things as he thinks expedient, subject to the provisions of this Ordinance—

(*a*) For regulating the practise of registration under this Ordinance;

(*b*) For classifying goods for the purposes of trade marks;

(*c*) For prescribing the fees payable in respect of applications and registration and other matters under this Ordinance, and the mode of payment of the same;

(*d*) Generally for regulating all things by this Ordinance placed under the direction or control of the Colonial Secretary.

(2) Any rules made in pursuance of this section shall be published in the *Government Gazette*, and it shall be lawful for the Governor, in Executive Council, by Proclamation to be published in the *Government Gazette*, to alter, amend, or revoke any such rules.

Protection of Trade Marks registered in Great Britain.

Registration of British trade marks.

41 (1) Any person who has registered a trade mark in Great Britain shall be entitled to registration of his trade mark under this Ordinance in priority to other applicants; and such registration shall have the same date as the date of the application for registration in Great Britain.

Provided that his application is made within four months from his applying for protection in Great Britain.

Provided that nothing in this section contained shall entitle the proprietor of the trade mark to recover damages for infringements happening prior to the date of the actual registration of his trade mark in this colony.

(2) The use in this colony during the period aforesaid of the trade mark shall not invalidate the registration of the trade mark.

(3) The application for the registration of a trade mark under this section must be made in the same manner as an ordinary application under this Ordinance.

Provided that any trade mark, the registration of which has been duly applied for in Great Britain, may be registered under this Ordinance.

Offences.

Offences.

Falsification of entries in register.

42 (1) If any person makes or causes to be made a false entry in the register kept under this Ordinance, or a writing falsely purporting to be a copy of an entry in any such register, or produces, or tenders, or causes to be produced or tendered in evidence any such writing knowing the entry or writing to be false, he shall be guilty of an offence, and punished with simple or rigorous imprisonment for a term not exceeding seven years.

Falsely describing trade mark as registered.

(2) Any person who describes any trade mark applied to any article sold by him as registered, which is not so, shall be guilty of an offence, and liable on conviction to a fine not exceeding fifty rupees. A person shall be deemed, for the purposes of this section, to describe that a trade mark is registered, if he sells the article with the word "registered," or any word or words expressing or implying that registration has been obtained for the article, stamped, engraved, or impressed on, or otherwise applied to, the article.

Unauthorized assumption of royal arms.

(3) Any person who, without the authority of Her Majesty, or any of the Royal Family, or of any Government Department, assumes or uses in connection with any trade, business, calling, or profession the Royal Arms or arms so nearly resembling the same as to be calculated to deceive, in such a manner as to be calculated to lead other persons to believe that he is carrying on his trade, business, calling, or profession by or under such authority as aforesaid, shall be guilty of an offence, and liable on conviction to a fine not exceeding one hundred rupees.

Offences non-cognizable and bailable.

43 All offences under this Ordinance are hereby declared to be "non-cognizable" and "bailable," within the meaning of those terms as defined in section 3 of "The Criminal Procedure Code, 1883."

SCHEDULE.

Form of application for Registration of Trade Mark.

(One representation to be fixed within this square, and two others on separate sheets of foolscap of same size.)

(Representation of a larger size may be folded, but must be mounted upon linen and affixed hereto.)

You are hereby requested to register the accompanying trade mark (*in Class* ——, *Iron in bars, sheets, and plates; in Class* ——, *Steam Engines and Boilers; and in Class* ——, *Warming Apparatus*) in the name of (*a*) ———, who claims to be the proprietor thereof.

Registration Fees enclosed, Rs.———.

(Signed) ———

To the Hon. the Colonial Secretary,
Colonial Secretary's Office, Colombo.

(*a*) Here insert legibly the name, address, and business of the individual or firm.

Note.—State whether the trade mark has or has not been in use before the coming into operation of this Ordinance.

22nd December, 1888.

No. 1 of 1889.

An Ordinance to consolidate and amend the Laws relating to Courts and their Powers and Jurisdictions.

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No. 1 of 1889.

An Ordinance to consolidate and amend the Laws relating to Courts and their Powers and Jurisdictions.

WHEREAS it is expedient to consolidate and amend the laws relating to the constitution, jurisdictions, and powers of the courts for the administration of justice in this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

CHAPTER I.

Preliminary.

1 This Ordinance may be cited for all purposes as "The Courts Ordinance, 1889," and it shall come into operation* at such date as the Governor shall, by Proclamation to be published in the *Government Gazette*, appoint. **Short title. Date of operation.**

2 On and from the day on which this Ordinance comes into operation, the Ordinances, sections of Ordinances, and rules of court respectively mentioned in the first column of the first schedule hereto, shall be severally repealed to the extent mentioned in the third column thereof, but such repeal shall not restore any jurisdiction or form of procedure not then existing or followed, nor prejudice anything done or suffered, or any legal proceedings commenced or penalty incurred before such repeal takes effect. Where any unrepealed Ordinance incorporates or refers to any provision of any Ordinance hereby repealed, such unrepealed Ordinance shall be deemed to incorporate or refer to the corresponding provision of this Ordinance. **Repeal**

3 The following words and expressions in this Ordinance shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant thereto: **Interpretation clause.**

"Her Majesty" and "the Queen" shall mean the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"The island," "this island," and "the colony" shall mean the island of Ceylon and its dependencies.

"The Governor" shall include the person for the time being administering the Government of Ceylon.

"Court" shall denote a judge empowered by law to act judicially alone, or a body of judges empowered by law to act judicially as a body, when such judge or body of judges is acting judicially.

"Original court" shall include the Supreme Court sitting in its original jurisdiction, district courts, courts of requests, and police courts.

* Proclaimed the 1st day of August, 1890.

"Judge" shall include judges of the Supreme Court, district judges, commissioners of requests, and police magistrates.

"Attorney-General" shall include the Solicitor-General and any Crown counsel specially authorized by the Attorney-General to represent the Attorney-General.

"Action" is a proceeding for the prevention or redress of a wrong.

"Cause of action" is the wrong for the prevention or redress of which an action may be brought, and includes the denial of a right, the refusal to fulfil an obligation, the neglect to perform a duty, and the infliction of an affirmative injury.

CHAPTER II.

Of Courts Generally.

Courts for the ordinary administration of justice.

4 The courts for the ordinary administration of justice, civil and criminal, within this colony, shall continue as heretofore to be as follows:

(1) The Supreme Court.
(2) District courts.
(3) Courts of requests.
(4) Police courts.

Proviso

Provided that nothing herein contained shall be held to affect the jurisdiction vested in, and exercised by, any court or courts under or by virtue of the provisions of any Imperial Statute or of any Ordinance or Ordinances now in force, except in so far as any such provisions shall be by this Ordinance expressly repealed or modified; or the jurisdiction of any court which may be holden within the island under or in pursuance of any statute in that case made and provided for the trial of offences committed on the seas, or within the jurisdiction of the Admiralty, or under any Commission issued or to be issued by the Lord High Admiral of England or the Commissioners for executing his office; or the jurisdiction of village tribunals, committees, or councils, or of any municipal magistrate, or of any special officer or tribunal legally constituted for any special purpose or to try any special case or class of cases.

CHAPTER III

Division of the Island for Judicial Purposes.

Division of the island into circuits, districts, and divisions.

5 For the purposes of the administration of justice in this colony the island shall be divided into four circuits, to be called respectively the western circuit, the midland circuit, the northern circuit, and the southern circuit; and each circuit shall comprise and be divided into the following districts:

The western circuit shall comprise and be divided into six districts, as follows:—Colombo, Negombo, Kalutara, Ratnapara, Puttalam, and Chilaw.

The midland circuit shall comprise and be divided into five districts, as follows :—Kandy, Kégalla, Kurunégala, Badulla, and Anurádhapura.

The northern circuit shall comprise and be divided into six districts, as follows :—Jaffna, Mannár, Mullaittívu, Vavuṇiya-Viláṇkulam, Trincomalee, and Batticaloa.

The southern circuit shall comprise and be divided into three districts, as follows :—Galle, Mátara, and Taṇgalla.

The several circuits shall be further divided into divisions as follows :—

The western circuit into eight divisions, viz. :—Colombo, Negombo, Pánaduré, Kalutara, Avisáwélla, Ratnapura, Chilaw, and Puttalam.

The midland circuit into twelve divisions, viz :—Anurádhapura, Badulla, Dumbara, Galagedara, Kurunégala, Kégalla, Gampola, Haldummulla, Hatton, Kandy, Mátalé, and Nuwara Eliya.

The northern circuit into eight divisions, viz. :—Jaffna, Point Pedro, Kayts, Mannár, Mullaittívu, Vavuṇiya-Viláṇkulam, Trincomalee, and Batticaloa.

The southern circuit into five divisions, viz :—Galle, Balapiṭiya, Mátara, Taṇgalla, and Hambantoṭa.

6 The limits of each district and division shall be as the same are respectively set out and defined in the second schedule hereto annexed.

Limits of districts and divisions.

Provided that it shall be lawful for the Governor, with the concurrence of the judges of the Supreme Court, or a major part of them, by Proclamation, from time to time to revoke, alter, or amend the division of the island into circuits, and, with the like concurrence and with the advice of the Executive Council, by Proclamation, from time to time to revoke, alter, or amend the division of any circuit into districts and divisions, and to alter the limits of any such district or division.

Power to alter and amend.

CHAPTER IV.

The Supreme Court.

Supreme Court.

7 There shall continue to be within this island one Supreme Court, which shall be called "The Supreme Court of the Island of Ceylon."

To consist of the Chief Justice and two puisne justices.

Its competency not affected by a vacancy.

8 The Supreme Court shall continue to be the only superior court of record, and shall consist of and be holden by and before three judges, namely, one Chief Justice, who shall be called "The Chief Justice of the Island of Ceylon," and two puisne justices. But upon the death, resignation, sickness, or incapacity of any judge, or in case of his absence from the island, or his suspension from office, the Supreme Court shall consist of and be holden by and before the two remaining judges until such vacancy shall be duly supplied ; and the two remaining judges shall do every act and thing

which the three judges of the said court are required and empowered to do collectively, in as full and ample a manner as if the three judges were present, save and except the hearing in review of any case preliminary to an appeal to Her Majesty in her Privy Council, at which the presence of three judges shall always be required in accordance with the provisions of section 42: Provided that if the two remaining judges shall not concur in opinion on any judgment, rule, or order to be pronounced or made, or in any act or thing to be done by them collectively, the same shall be thereupon reserved for decision until three judges shall be present.

Proviso.

Judges how to be appointed.

9 The Chief Justice and puisne justices shall, as heretofore, from time to time be nominated and appointed to their offices by letters patent to be issued under the public seal of this island, in pursuance of warrants from time to time issued by Her Majesty under the sign manual, and shall hold such offices during her pleasure.

Governor may appoint provisionally.

10 Upon the death, resignation, sickness, or incapacity of the Chief Justice, or any of the puisne justices, or in the case of the absence of any of them from this island, or in the case of any such suspension from office as hereinafter mentioned, the Governor may, by letters patent to be by him for that purpose made and issued under the public seal of the island, nominate and appoint some fit and proper person to act as and in the place of any such Chief Justice or puisne justice so dying, or resigning, or labouring under such sickness or incapacity, or being so absent from the island, or being so suspended, until the vacancy so created shall be supplied by a new appointment, or until the Chief Justice or puisne justice so becoming sick or incapable, or being absent or suspended as aforesaid, shall resume his office and enter into the discharge of the duties thereof.

Governor when authorized to suspend.

11 Nothing herein contained shall affect the right of the Governor, as set out in the Royal Charter of 1833, with the advice of the Executive Council, to suspend any judge of the said court from the exercise of his functions therein, provisionally, until Her Majesty's pleasure can be known. But as it is expedient that no such act of suspension should take place except upon the most evident necessity, and after the most mature deliberation, and that, in any such event, the judge who may be so suspended should receive the most early, complete, and authentic information of the grounds of such proceeding against him: It is therefore declared, directed, and appointed, according to the provision in the said Charter, that it shall and may be lawful for the Governor, by any order to be by him for that purpose made and issued under the public seal of the island, with the advice of the Executive Council, or the major part of them, upon proof of the misconduct or incapacity of any such Chief Justice or puisne justice as aforesaid but not otherwise, to suspend him from such his office and from the discharge of the duties thereof: Provided that in every such case the Governor shall immediately report for the information of Her Majesty, through one of her Principal Secretaries of State, the grounds and

Rules to be observed in such case.

causes of such suspension, in order that Her Majesty, with the advice of the Privy Council, may either confirm or disallow any such suspension as to her shall seem fit: And provided also that a full statement be entered on the minutes of the said Executive Council of the grounds of such proceeding, and of the evidence upon which the same may be founded, a full copy of which minutes and evidence shall, by the Governor, be transmitted to such judge, together with the order suspending him from his office.

Rank and precedence of the judges.

12 The Chief Justice shall have rank and precedence above and before all persons whomsoever within the island, excepting the Governor and Lieutenant-Governor for the time being, and excepting such persons as by law or usage in England take place before the Chief Justice of England; and the puisne justices shall have rank and precedence above and before all persons whomsoever within the island, excepting the Governor and the Lieutenant-Governor for the time being, the said Chief Justice, the officer for the time being commanding Her Majesty's Forces in the island, and the Bishop of Colombo, and excepting such persons as by law or usage in England take place before the puisne justices of the High Court of Justice in England: and the said puisne justices shall take rank and precedence between themselves according to the priority of their appointments respectively.

Seal of the Supreme Court, and the custody thereof.

13 The Supreme Court shall continue to have and use, as occasion may require, the seal bearing a device and impression of the royal arms, with an exergue or label surrounding the same, with this inscription: "The Seal of the Supreme Court of the Island of Ceylon;" and the said seal shall be kept in the custody of the Chief Justice, with full liberty to deliver the same to any puisne justice of the said court, or to the registrar hereinafter mentioned, for any temporary purpose; and in case of the vacancy of or suspension from the office of Chief Justice, the same shall be delivered over to, and kept in the custody of, such person as shall be appointed by the Governor to act as and in the place and stead of the Chief Justice.

Judges incapable of holding other offices of profit.

14 No Chief Justice or puisne justice shall be capable of accepting, taking, or performing any other office, place of profit, or emolument within the island, on pain that the acceptance of such other office or place as aforesaid shall be *ipso facto* an avoidance of his office of Chief Justice or puisne justice, as the case may be; and the salary thereof shall cease accordingly from the time of such acceptance of any other office or place: Provided that no Chief Justice or puisne justice shall be rendered incapable of holding his office, or shall forfeit his salary, by accepting the office of judge of the Court of Vice-Admiralty in the island, or of commissioner for the trial and adjudication of prize causes and other maritime questions arising in India.

Exception.

Ministerial officers of the court, their number how to be determined.

15 There shall be attached and belong to the said court an officer to be styled the registrar and keeper of records of the court, and such and so many other officers as shall, to the Chief Justice for the time being, from time to time appear to be necessary for the administration of justice and the due execution of the powers and authorities which are granted and committed to the said court: Provided that no office shall be created in the said court unless the Governor shall signify his approbation thereof to the Chief Justice for the time being, in writing, under the hand of such Governor.

Proviso.

Ministerial officers how to be appointed.

16 All the subordinate officers of the Supreme Court shall be appointed to their offices by Her Majesty or by the Governor on her behalf: Provided that all persons who shall be attached to or hold any office in the said court as clerk or as private secretary to any of the judges thereof shall be appointed to such office by the judge for the time being whom such person may so serve in any such capacity; but no person so holding the office of either clerk or private secretary to any judge shall be allowed to plead or practice as an advocate or proctor in the Supreme Court.

Proviso.

To hold office during pleasure.

17 The aforesaid several officers of the Supreme Court shall hold their respective offices during pleasure, and shall perform their respective duties under and subject to the direction and control of the Supreme Court, and shall be subject to be suspended from their offices by the said court for misconduct or other sufficient cause until the pleasure of Her Majesty or of the Governor on her behalf can be ascertained and made known.

Admission of advocates and proctors.

18 Subject to the rules hereinafter set out in the third schedule to this Ordinance annexed, the Supreme Court is authorized and empowered to admit and enrol as advocates or proctors in the said court, and as proctors in any of the district courts of the island, persons of good repute and of competent knowledge and ability.

Powers of Supreme Court to refuse to admit, and to suspend or remove them.

19 Whenever the Supreme Court shall refuse to so admit and enrol any person applying to be so admitted and enrolled as such advocate or proctor aforesaid, the judges of the said court shall, if required so to do by the applicant, assign and declare in open court the reasons of refusal. No person whatsoever not so admitted and enrolled as aforesaid shall be allowed to appear, plead, or act in the Supreme Court or any district court for or on behalf of any other person, being a suitor in such court. Every person so admitted and enrolled as such advocate or proctor as aforesaid, who shall be guilty of any deceit, malpractice, crime, or offence, may be suspended from practice or removed from office by the judges of the Supreme Court, collectively. Provided, however, that every such advocate or proctor shall be subject to be suspended by any judge of the Supreme Court upon such cause as aforesaid: and that before any such advocate or proctor shall be suspended or removed as herein provided a notice containing a copy of the charge or charges against

him, and calling upon him to show cause within a reasonable time why he should not be removed or suspended, as the case may be, shall be personally served on him. If, however, personal service connot be effected, the Supreme Court may order such substituted service as it may deem fit. And provided further that nothing herein contained shall effect the provisions of Ordinance No. 12 of 1848, intituled "An Ordinance for making provision in certain respects touching the Admission of Advocates and Proctors, and for the annual registration of Practising Proctors," which said provisions, so far as they are not repugnant to or inconsistent with this Ordinance, shall remain in full force and operation.

Power to appoint commissioners of oaths.

20 It shall be lawful for the Supreme Court to appoint for any district under the seal of the said court, and such appointment at its discretion to cancel, one or more persons to administer oaths for the purpose mentioned in section 183 of "The Civil Procedure Code, 1889," and such persons shall be styled "Commissioners to administer Oaths."

Jurisdiction and powers of Supreme Court.

21 The Supreme Court shall have and exercise—

(1) An original criminal jurisdiction for the inquiry into all crimes and offences committed throughout the island, and for the hearing, trying, and determining all prosecutions and charges which shall be commenced, and all indictments and informations which shall be presented therein against any person for or in respect of any such crimes or offences, or alleged crimes or offences ;

(2) An appellate jurisdiction for the correction of all errors as hereinafter specified, which shall be committed by any original court, and sole and exclusive cognizance by way of appeal and revision of all causes, suits, actions, prosecutions, matters, and things of which such original court may have taken cog-

Power to grant injunctions.

22 The Supreme Court, or any judge thereof, shall be, and is hereby authorized, to grant and issue injunctions to prevent any irremediable mischief which might ensue before the party making application for such injunction could prevent the same by bringing an action in any original court. Provided that it shall not be lawful for the Supreme Court, or for any judge thereof, in any case to grant an injunction to prevent a party to any action in any court from appealing or prosecuting an appeal to any court of appeal, or to prevent any party to any action in any original court, or in any court of appeal, from insisting upon any ground of action, defence, or appeal, or to prevent any person from suing or prosecuting an action in any court, except where such person has instituted two separate actions in different courts for and in respect of the same cause of action, in which case the Supreme Court shall have power by injunction to restrain him from prosecuting one or the other of such actions as to it may seem fit.

Proviso.

Several jurisdictions may be exercised simultaneously by judges sitting apart.

23 Subject to the limitations in that behalf in this or any other Ordinance for the time being in force prescribed, the several jurisdictions and all powers and functions by any such Ordinance conferred upon the Supreme Court may be exercised in different matters at the same time by the several judges of the said court sitting apart.

Commissioners of Assize.

Appointment of commissioners of

24 Whenever the Chief Justice shall represent to the Governor that it is expedient that any criminal session of the Supreme Court should be held in any circuit otherwise than by one of the judges of the Supreme Court, the Governor may, if he thinks it expedient, by commission under the public seal of the island, from time to time appoint a judicial officer, to be called "Commissioner of Assize," who shall hold office for such period, and for such criminal session or part of a criminal session of the Supreme Court, as shall be specified in the said commission.

Rights, powers, privileges, &c., of.

25 It shall be lawful for every such commissioner to hold any criminal session or part thereof of the Supreme Court appointed to be holden under the provisions of this Ordinance for which he may be appointed to act, and such commissioner during the continuance of such session or part thereof shall be invested with all the rights, powers, privileges, and immunities of a judge of the Supreme Court, and shall have and take rank and precedence immediately after the puisne judges of the said court.

Sessions held before.

26 Every criminal session or part thereof of the Supreme Court to be holden before a commissioner under the authority of the foregoing provisions shall be deemed and taken to be a criminal session of the court within the meaning of this Ordinance and of the Criminal Procedure Code, in the same and in the like manner as if the same were holden by one of the judges of the said court; and all the provisions of this Ordinance and of the said Code or any other Ordinance applying, relating, or referring to criminal sessions of the said court, or to any act, matter, or thing done or required to be done by any person with reference to, or in connection with, such criminal sessions of the Supreme Court, shall apply, relate, and refer to every criminal session or part thereof to be holden by such commissioner, and to every act, matter, or thing done or to be done by any person with reference to, or in connection with, such last-mentioned session or part thereof, in the same manner and to the same extent as if such last-mentioned session or part thereof were a criminal session of the Supreme Court holden by a judge thereof.

Original Criminal Jurisdiction.

Criminal jurisdiction how to be exercised.

27 The original criminal jurisdiction of the Supreme Court shall be exercised at criminal sessions of the Supreme Court holden in the manner in the Criminal Procedure Code and in section 31 of this Ordinance prescribed.

28 Criminal sessions of the Supreme Court shall be holden by one of the judges thereof or by a commissioner of assize duly appointed under the provisions of this Ordinance, for each of the circuits, for the hearing, trying, and determining all prosecutions which shall be commenced against any person for or in respect of any crime or offence, or alleged crime or offence :

Criminal sessions, when and where holden.

For the western circuit, four times at least in each year at Colombo and such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Colombo on January 10, on March 20, on July 10, and on October 10 in every year.

For the midland circuit, three times at least at Kandy and any other sessions at such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Kandy on March 10, on August 1, and on December 1 in every year.

For the northern circuit, twice at least at Jaffna and such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Jaffna in the month of February and the month of July in every year.

For the southern circuit, twice at least at Galle and such other places in such circuit as the Governor, after previous consultation with the judges, shall appoint, such sessions commencing at Galle on April 25 and September 15 in every year.

Provided that should any of the afore-mentioned days fall on a Sunday or on any public holiday, the sessions shall commence on the day following such Sunday or public holiday; and provided further that it shall be competent for the Governor, for sufficient reasons to him appearing, to order, after previous consultation with the judges, other sessions to be holden at the places above-mentioned, or at any other place in any of the said circuits, or to alter the dates above-mentioned, and to fix any other date for the commencement of the sessions at any place.

29 The Chief Justice shall first choose the circuit on which he will proceed, and then the second choice shall be made by the senior puisne justice.

Choice of circuits.

30 Every judge of the Supreme Court before or on holding any criminal sessions of the Supreme Court shall and may issue his mandate directed to all and every of the fiscals or other keepers of prisons within the limits of the circuit for which the sessions are held, to certify to the said judge the several persons then and there in the custody of any of them committed for and charged with any crimes or offences whatsoever ; and the said fiscals or other keepers of prisons

Judge to issue a mandate to fiscals or jailers to return a calendar of prisoners.

Contents of calendar.

shall and are hereby required to make, certify, and transmit due returns to such mandate, by specifying in a calendar or list to be annexed to such mandate the time or times when all and every of the said persons so in their custody were committed, and by whose authority, and on what charge or crime respectively, in writing; and if need be, according to the tenor and exigency of such mandate, such fiscals or keepers of prisons shall bring the said persons so in their custody, or any of them, before the said judge wheresoever the said judge shall then be holding the criminal sessions of the Supreme Court, together with the witnesses for the prosecution and defence whose attendance before such court is certified by the magistrate as necessary on the back of the respective commitments by virtue of which such prisoners were delivered into their custody respectively, in order that such prisoners may be dealt with according to law: Provided always that whenever any person shall, after the making out of any such calendar or list, and while such judge shall be holding the criminal sessions of the Supreme Court in the town or place wherein such calendar or list was delivered, be apprehended or committed on any criminal charge, it shall and may be lawful for the Attorney-General to move the insertion of the name of such person in the said calendar or list.

Prisoners and witnesses to be brought before the judge.

Criminal sessions how to be holden.

31 Criminal sessions of the Supreme Court shall be holden before a judge of the Supreme Court and a jury in the manner in the Criminal Procedure Code or any Ordinance amending the same prescribed, and the said court shall at all such sessions inquire of all such crimes and offences, and hear, try, and determine all such prosecutions as by this Ordinance, or by the said Criminal Procedure Code, or Ceylon Penal Code, or any Ordinance empowering or requiring it in that behalf, it is empowered and required to inquire of and hear, try, and determine.

Proviso for case to be tried before full court.

Provided always that in the case of any accused party committed for trial before the Supreme Court, the Chief Justice may in his discretion order and direct that the crime or offence or alleged crime or offence with which such person is charged may be inquired of, and the prosecution instituted against him in respect thereof heard, tried, and determined. before the full court at Colombo with a jury; and such crime or offence shall be inquired of and such prosecution shall be heard, tried, and determined accordingly.

Objection to jurisdiction.

32 Whenever any prisoner or accused party shall have pleaded to any indictment or information exhibited against him at any session of the Supreme Court, and it appears in evidence that the crime or offence with which such person is charged was committed without the limits of the circuit for which such session is being held, the Supreme Court shall, nevertheless, at such session proceed to try such crime or offence in such and the same manner as if such crime or offence had been committed within the limits of such circuit.

Prisoner committed for trial before Supreme Court to be brought to trial at first session thereof.

When to be discharged if not brought to trial at second session after commitment.

33 If any prisoner committed for trial before the Supreme Court for any offence shall not be brought to trial at the first criminal sessions after the date of his commitment at which such prisoner might properly be tried (provided that twenty-one days have elapsed between the date of the commitment and the first day of such criminal sessions), the said court or any judge thereof shall admit him to bail, unless good cause be shown to the contrary, or unless the trial shall have been postponed on the application of such prisoner; and if such prisoner be not brought to trial at the second criminal sessions of the Supreme Court holden after the date of his commitment at which such prisoner might properly be tried, unless by reason of the insanity or sickness of such prisoner, or by reason of his application for the postponement of such trial (provided that six weeks at least shall have elapsed since the close of the first criminal sessions after the date of such commitment before the commencement of such second criminal sessions, and provided also that six months at least shall have elapsed between the date of the commitment and the commencement of such second criminal sessions), the judge of the said court presiding at such last-mentioned sessions shall, unless good cause be shown to the contrary, issue his order to the fiscal for the discharge of such prisoner from his imprisonment for the offence for which he has been so committed for trial.

When person discharged, not to be recommitted for same offence.

But may be brought to trial.

34 No person who has been discharged from jail in consequence of not being brought to trial within the proper time, as in the last section provided, shall be subject to be recommitted to jail for the same offence, except in the case hereinafter mentioned: and no person who has been admitted to bail to appear and take his trial, and who has not been duly brought to trial, shall, unless the bail bond or the money deposited instead of bail has been forfeited, be obliged to find further bail, or be subject to be recommitted to jail, except as hereinafter excepted, for the same offence in respect of which he was originally admitted to bail: Provided always that neither any such discharge from imprisonment, nor the expiration of the bail bond, shall be any bar to any person being brought to trial in any competent court for any offence for which he was originally committed for trial.

May be summoned to stand his trial.

35 Whenever after the expiration of the period aforesaid the Attorney-General shall desire to put any person upon his trial for any offence for which he was originally committed for trial, he shall make application to the court competent to try such offence for a summons to the person alleged to have committed the same to appear before such court at the time and place mentioned in such summons, then and there to take his trial: and such summons shall be served personally upon such person, or left at his usual place of abode. And if after due service of such summons such person shall nevertheless fail to appear as therein directed, he may be arrested without a warrant by any officer of the law or

private person and recommitted to jail for trial : and until he shall be so recommitted his property shall be liable to attachment in manner provided by law in respect of persons who have absconded or fled from justice.

Proceedings where party does not appear on recognizance to take his trial.

36 If the accused person shall commit any breach of his bail bond, and the court thereupon directs the fact to be entered on the minutes, the bail bond, or the money deposited instead of bail, as the case may be, shall become forfeited, and such proceedings may be taken for recovering payment of the amount of the bond as the law directs : Provided that in any case in which the accused shall have become bound to appear at any session of the Supreme Court, if at any time before the close of such session he shall appear and satisfactorily excuse his neglect, the court may direct the forfeiture of the bail or deposit to be discharged upon such terms as are just.

Recognizances of accused parties and witnesses may be respited.

37 When any person charged with any crime or offence shall have entered into a bond to appear and take his trial for the same, or when any person shall have entered into a bond with or without sureties to appear and give evidence at the trial of any person so charged as aforesaid, and the court before which such person shall have thereby become bound to appear and take his trial, or to appear and give evidence, as the case may be, shall see fit to postpone the trial, in each of such cases it shall be lawful for such court to order the bond of any person so bound and the obligation of his sureties to be respited and enlarged till such time as the said court shall appoint : and thereupon the condition of such bond and the obligation of the said sureties shall be extended to such time and place as shall be appointed in such order ; and the parties, whether principal or sureties, bound by such bond shall continue liable thereunder as fully as if such extended time and place had been originally inserted in the condition thereof.

Twenty years a bar to prosecution. excepting in murder and treason.

38 The right of prosecution for murder or treason shall not be barred by any lapse of time, but the right of prosecution for any other crime or offence (save and except those in which special provision shall have heretofore been or shall hereafter be made by Ordinance) shall be barred by the lapse of twenty years from the time when the crime or offence shall have been committed.

Appellate Jurisdiction.

Appellate jurisdiction where to be exercised.

Extent of.

39 The appellate jurisdiction of the Supreme Court shall be ordinarily exercised only at Colombo. Subject to the provisions in that behalf in the said Criminal Procedure Code or any Ordinance amending the same contained, such jurisdiction shall extend to the correction of all errors in fact or in law which shall be committed by any judge of the Supreme Court sitting alone as hereinafter provided : to the correction of all errors in fact or in law which shall be committed by any district court : to the correction of all

errors in fact or in law which shall be committed by any court of requests in any final judgment or any order having the effect of a final judgment: and to the correction of all errors in fact or in law committed by any police court or by the court of any municipal magistrate. But no judgment, sentence, or order pronounced by any court shall on appeal or revision be reversed, altered, or amended on account of any error, defect, or irregularity which shall not have prejudiced the substantial rights of either party.

Powers in appeal or on revision.

40 On the hearing of any case in appeal, or on revision from any of the original courts, it shall be competent to the Supreme Court, subject to the provisions in the preceding section and in the Criminal Procedure Code contained, to affirm, reverse, correct, or modify any judgment, sentence, decree, or order according to law, or to pass such judgment, sentence, decree, or order therein between and as regards the parties, or to give such direction to the court below, or to order a new trial or a further hearing upon such terms as the Supreme Court shall think fit: or if need be, to receive and admit new evidence additional to, or supplementary of, the evidence already taken in the court of first instance touching the matters at issue in any original cause, suit, prosecution, or action, as justice may require.

Proviso as to taking new evidence on circuit.

Provided that if the Supreme Court in Colombo shall see fit to order such new evidence to be taken on circuit, it shall be competent to a single judge on circuit to take, receive, and admit such new evidence, and to hear and determine the matter under appeal or revision; and his decision upon such matter shall be deemed and taken to be the judgment of the Supreme Court thereon: Provided further, that in any case in which the provisions of this Ordinance require the presence of two or more judges for the final determination of any such matter, cause, suit, or action, the decision of such judge sitting alone on circuit shall not be final, but an appeal shall lie therefrom to the Supreme Court, and the procedure on such appeal shall be in all respects the same as the procedure in "The Civil Procedure Code, 1889," provided for appeals for the hearing of which the presence of two or more judges is by this Ordinance made necessary.

Proviso as to appeal.

Appeals from single judges of the Supreme Court and from district courts and courts of requests.

41 All appeals in civil cases from the decision of a single judge sitting as in the last preceding section provided, and from judgments and orders of the several district courts of the colony, shall be heard before two at least of the judges of the said court. Appeals from judgments in criminal cases pronounced and made by district courts, and all appeals from courts of requests and police courts, may be heard, and all powers given to the Supreme Court in respect of such appeals may be exercised by any one judge of the Supreme Court. In the event of any difference of opinion between such two judges the decision of the said court shall be suspended until all the three judges shall be present, and the decision of such two judges when unanimous, or of the majority of such three judges in case of any difference of

opinion, shall in all cases be deemed and taken to be the judgment of the Supreme Court. All appeals from the decision of one judge of Supreme Court sitting as in the last preceding section provided shall be heard by the other two judges of the said court, and the decision of such two judges when unanimous shall in all cases be deemed and taken to be the judgment of the Supreme Court therein ; but in case of any difference of opinion the original judgment shall stand affirmed.

Nothing in this section contained shall preclude any judge of the Supreme Court sitting alone in appeal from reserving any appeal for the decision of two or more judges thereof.

Appeal to Her Majesty in Privy Council.

Appeals to Privy Council

42 Nothing herein contained shall be held to affect the appeal to Her Majesty in her Privy Council, graciously granted by the Royal Charter of 1833 to any person or persons being a party or parties to any civil suit or action depending in the Supreme Court, against any final judgment, decree, or sentence, or against any rule or order made in any such civil suit or action, and having the effect of a final or definitive sentence, and which said appeal shall continue to be subject to the rules and limitations by the said Charter prescribed and hereinafter set out, as follows :

Case to be first heard by full court in review.

First.—That before any such appeal shall be so brought, such judgment, decree, sentence, rule, or order shall be brought by way of review before the judges of the Supreme Court collectively holding general sessions at Colombo, at which all the judges of the said court shall be present and assisting, which judges shall by rules and orders to be by them framed and established in manner herein provided regulate the form and manner of proceeding to be observed in bringing every such judgment, decree, sentence, rule, or order by way of review before them, and shall thereupon pronounce judgment according to law, the judgment of the majority of which judges shall be taken and recorded as the judgment of the said court collectively.

Amount in respect of which appeal may be taken.

Secondly.—Every such judgment, decree, sentence, or order in review from which such an appeal shall be submitted to her said Majesty, her heirs, and successors as aforesaid, shall be given or pronounced for or in respect of a sum or matter at issue above the amount or value of five thousand rupees, or shall involve directly or indirectly the title to property or to some civil right exceeding the value of five thousand rupees.

Application for leave to appeal to be within fourteen days.

Thirdly.—The person or persons feeling aggrieved by such judgment, decree, order, or sentence in review shall, within fourteen days next after the same shall have been pronounced, made, or given, apply to the said Supreme Court at such general sessions as aforesaid, by petition, for leave to appeal therefrom to her said Majesty, her heirs, and successors in her or their Privy Council.

Fourthly.—If such leave to appeal shall be prayed by the party or parties who is or are adjudged to pay any sum of money, or to perform any duty, the Supreme Court shall direct that the judgment, decree, or sentence in review appealed from shall be carried into execution if the party or parties respondent shall give security for the immediate performance of any judgment, decree, or sentence which may be pronounced or made by her said Majesty, her heirs, and successors in her or their Privy Council upon any such appeal; and until such security be given the execution of the judgment, decree, order, or sentence appealed from shall be stayed.

Judgment to be executed on security being given for restitution.

Fifthly.—Provided, nevertheless, that if the said party or parties appellant shall establish to the satisfaction of the Supreme Court that real and substantial justice requires that, pending such appeal, execution should be stayed, it shall be lawful for the said court to order the execution of such judgment, decree, order, or sentence in review to be stayed pending such appeal if the party or parties appellant shall give security for the immediate performance of any judgment, decree, or sentence which may be pronounced or made by her said Majesty, her heirs, or successors in her or their Privy Council upon any such appeal.

Court may stay execution on appellant giving security.

Sixthly.—In all cases security shall also be given by the party or parties appellant for the prosecution of the appeal and for the payment of all such costs as may be awarded by her said Majesty, her heirs, and successors to the party or parties respondent.

Appellant to give security for prosecution of appeal and payment of costs.

Seventhly.—The court from which any such appeal as aforesaid shall be brought shall, subject to the conditions hereinafter mentioned, determine the nature, amount, and sufficiency of the several securities so to be taken as aforesaid.

Court to determine security.

Eighthly.—Provided, nevertheless, that in any case where the subject of litigation shall consist of immovable property, and the judgment, decree, order, or sentence appealed from shall not change, affect, or relate to the actual occupation thereof, no security shall be demanded, either from the party or parties respondent, or from the party or parties appellant, for the performance of the judgment or sentence to be pronounced or made upon such appeal; but if such judgment, decree, order, or sentence shall change, affect, or relate to the occupation of any such property, then such security shall not be of greater amount than may be necessary to secure the restitution free from all damage or loss of such property or of the intermediate profit which, pending any such appeal, may probably accrue from the intermediate occupation thereof.

Security when not required in case of immovable property.

Ninthly.—In any case where the subject of litigation shall consist of money or other chattels, or of any personal debt or demand, the security to be demanded, either from the party or parties respondent or from the party or parties appellant, for the performance of the judgment or sentence to be pronounced or made upon such appeal, shall be either

Security in case of movable property.

a bond to be entered into in the amount or value of such subject of litigation by one or more sufficient surety or sureties, or such security shall be given by way of mortgage or voluntary condemnation of or upon some immovable property situate and being within this island, and being of the full value of such subject of litigation over and above the amount of all mortgages and charges of whatever nature upon or affecting the same.

Security for prosecution of appeal not to exceed three thousand rupees.

Tenthly.—The security to be given by the party or parties appellant for the prosecution of the appeal and for the payment of costs shall in no case exceed the sum of three thousand rupees, and shall be given either by such surety or sureties or by such mortgage or voluntary condemnation as aforesaid.

Appellant to be allowed three months to enter into securities.

Eleventhly.—If the security to be given by the party or parties appellant for the prosecution of the appeal and for the payment of such costs as may be awarded shall in manner aforesaid be completed within three months from the date of the petition for leave to appeal, then, and not otherwise, the Supreme Court shall make an order allowing such appeal; and the party or parties appellant shall be at liberty to prefer and prosecute his, her, or their appeal to her said Majesty, her heirs, and successors in her or their Privy Council in such manner and under such rules as are observed in appeals made to her said Majesty in her Privy Council from her plantations or colonies.

Application against order as to security.

Twelfthly.—Provided, nevertheless, that any person or persons feeling aggrieved by any order which may be made by or by any proceedings of the Supreme Court respecting the security to be taken upon any such appeal as aforesaid, shall be and is or are hereby authorized by his, her, or their petition to her said Majesty in her Privy Council to apply for redress in the premises.

Proviso as to right of admitting appeals without reference to these rules.

Provided always, as is also in the said Charter provided, that nothing herein contained shall extend to take away or abridge the undoubted right or authority of her said Majesty, her heirs, and successors, to admit and receive any appeal from any judgment, decree, sentence, or order of the Supreme Court, or the humble petition of any person or persons aggrieved thereby, in any case in which, and subject to any conditions or restrictions upon or under which, it may seem meet to her said Majesty, her heirs, and successors so to admit and receive any such appeal.

Transcript of records to be forwarded to Privy Council.

43 In all cases of appeal allowed by the said Supreme Court or by her said Majesty, her heirs, and successors, such court shall, on the application and at the costs of the party or parties appellant, certify and transmit to her said Majesty, her heirs, and successors in her or their Privy Council a true and exact copy of all proceedings, evidence, judgments, decrees, and orders had or made in such causes so appealed, so far as the same have relation to the matter of appeal: such copies to be certified under the seal of the said court.

Supreme and original courts to execute, &c., judgments of Privy Council in appeal.

44 In all cases of appeal to Her Majesty, the Supreme Court and the original court from which any such appeal was first taken shall conform to, execute, and carry into immediate effect such judgments and orders as Her Majesty in Council shall make thereupon, in such manner as any original judgment or decree of such court can or may be executed.

Saving to Supreme Court of powers not herein mentioned conferred on it by Royal Charter.

45 The Supreme Court shall have and enjoy all powers, privileges, and jurisdictions not hereinbefore specifically mentioned, which were conferred upon it by or by virtue of the Royal Charter of 1833 and by any Royal Charter of subsequent date, and which are not inconsistent with the enactments of this Ordinance or of "The Civil Procedure Code, 1889," or any Ordinance amending the same.

General Provisions.

Supreme Court may inspect records, issue mandates, and transfer causes.

46 The Supreme Court or any judge thereof, at Colombo or elsewhere, shall have full power and authority to inspect and examine the records of any court, and to grant and issue, according to law, mandates in the nature of writs of *mandamus*, *certiorari*, *procedendo*, and prohibition, against any district judge, commissioner, magistrate, or other person or tribunal.

And whenever it shall appear to the Supreme Court or to any judge thereof, at Colombo or elsewhere—

(*a*) That a fair and impartial trial cannot be had in any particular court or place; or

(*b*) That some question of law of unusual difficulty is likely to arise; or

(*c*) That a view of the place in or near which any offence is alleged to have been committed may be required for the satisfactory inquiry into or trial of the same; or

(*d*) That it is expedient on any other ground;

the said court or such judge thereof as aforesaid may make order upon such terms as to payment of costs or otherwise, as such court or judge may deem fit, for the transfer of any prosecution, matter, or thing depending before the Supreme Court in its original jurisdiction from any circuit to any other circuit, or to any other place in the same circuit, or to any other court, or for the transfer of any cause, suit, action, prosecution, matter, or thing depending in any court other than the Supreme Court to any other such court, anything in chapter XIV. of the said Criminal Procedure Code or any other enactment to the contrary notwithstanding: and in every such case the court to which any such cause, suit, action, prosecution, matter, or thing shall be so transferred shall take cognizance thereof, and have power and jurisdiction for the hearing, trial, and decision of the same as fully and effectually to all intents and purposes as if such court

Transfer in what manner to be obtained.

had originally such power and jurisdiction. Every transfer of any such cause, suit, action, prosecution, matter, or thing as in this section mentioned shall be made after application by motion, which shall be supported by affidavit setting out the grounds on which it is based.

Provided that the Supreme Court, in making an order for transfer under this section, may, if it thinks fit, direct that the court to which such cause, suit, action, prosecution, matter, or thing is transferred, shall call all or any of the witnesses who have been examined before the court from which the transfer is made, and take their evidence afresh.

Exception.

47 In any case in which it shall appear to the Attorney-General that it is expedient that any inquiry into or trial of any criminal offence shall be transferred from any court or place to any other court or place, whether within the same or any other circuit, it shall be lawful for the Attorney-General in his discretion by his fiat in writing to designate such last-mentioned court or place, and such inquiry or trial shall be held accordingly on the authority of such fiat, which shall be filed of record with the proceedings in every case so transferred as aforesaid; and in every case of such transfer the provisions of sections 248 and 249 of the Criminal Procedure Code shall be taken to apply.

Provided always that any party considering himself aggrieved by any transfer made on any such fiat of the Attorney-General may apply to the Supreme Court or any judge thereof, by motion supported by affidavit or affirmation setting out the grounds of such application, for a re-transfer or for a transfer to any other court or place of such inquiry or trial, and the Supreme Court may, after notice to the Attorney-General, who shall, if he thinks fit, be heard to show cause against such motion, if it considers that good cause has been shown why the application should be granted, make order accordingly.

Notice to Attorney-General on application for a transfer.

48 Every accused person making any application for a transfer under section 46, and every person making any application under section 47 for a re-transfer or for a transfer to some other court or place than the court or place to which the Attorney-General shall have ordered the transfer of any inquiry into or trial of a criminal offence, shall give to the Attorney-General, and also to the complainant, notice in writing of such application, together with a copy of the grounds on which it is made: and no order shall be made on the merits of the application unless and until at least forty-eight hours have elapsed between the receipt of such notice and the hearing of the application. And every accused person making any application under the provisions of section 46 or 47 may be required by the Supreme Court in its discretion to execute a bond with or without sureties, conditioned that he will, if convicted, pay the cost of the prosecution.

49 The Supreme Court or any judge thereof, whether at Colombo or elsewhere, shall be and is hereby authorized to grant and issue mandates in the nature of writs of *habeas corpus* to bring up before such court or judge—

Supreme Court may issue writs of *habeas corpus.*

(*a*) The body of any person to be dealt with according to law;

(*b*) The body of any person illegally or improperly detained in public or private custody;

and to discharge or remand any person so brought up, or otherwise deal with such person according to law.

Provided that it shall be lawful for such court or judge, in cases of alleged imprisonment or detention arising in places beyond the jurisdiction of the district court of Colombo, to require the body of such person to be brought up in the nearest district court, court of requests, or police court, and to direct the district judge, commissioner, or magistrate of such court to inquire into and report upon the cause of the alleged imprisonment or detention to such court or judge, and to make such provision for the interim custody of the body produced, as to such court or judge shall seem right; and such court or judge shall, upon the receipt of such report, make order to discharge or remand the person so alleged to be imprisoned or detained, or otherwise deal with such person according to law; and the said district court, court of requests, or police court shall conform to, and carry into immediate effect, the order so pronounced or made by such court or judge in the premises.

50 The Supreme Court or any judge thereof, whether at Colombo or elsewhere, may direct—

And bring up and remove prisoners.

(*a*) That a prisoner detained in any prison be brought before a court-martial or any commissioners acting under the authority of any commission from the Governor for trial or to be examined touching any matter pending before such court-martial or commissioners respectively;

(*b*) That a prisoner be removed from one custody to another for the purposes of trial; or

(*c*) That the body of a defendant be brought in on the fiscal's return of *cepi corpus* to a writ of attachment.

Unless and until rules in that behalf shall be framed under the provisions of section 53, the practice of the court as to the obtaining and issuing of writs of *habeas corpus*, and as to the return thereto, shall apply to cases under this and the last preceding section.

51 The Supreme Court or any judge thereof, whether at Colombo or elsewhere, shall have full power and authority to take cognizance of and to try in a summary manner any offence of contempt committed against or in disrespect of the authority of itself, or any offence of contempt committed against or in disrespect of the authority of any other court,

Supreme Court may punish in summary manner for contempt.

and which such court has not jurisdiction under section 59 to take cognizance of and punish, and on conviction to commit the offender to jail until he shall have purged his contempt or for such period as to the court or judge shall seem meet; and such imprisonment shall be simple or rigorous as such court or judge shall direct, and the offender may in addition thereto or in lieu thereof, in the discretion of such court or judge, be sentenced to pay a fine not exceeding five thousand rupees.

Judge may reserve any question for decision of two or more judges.

52 Whenever any question shall arise for adjudication in any case coming before a single judge of the Supreme Court, which shall appear to such judge to be a question of doubt or difficulty, it shall be lawful for such judge to reserve such question for the decision of two or more judges of the said court. Provided, however, that nothing in this section contained shall be taken to affect the provisions of chapter XXXII. of the said Criminal Procedure Code.

Judges may frame rules.

53 It shall be lawful for the judges of the Supreme Court or any two of them, of whom the Chief Justice shall be one, from time to time to frame, constitute, and establish such general rules and orders of court as to them shall seem meet, for regulating all or any of the following matters:

(1) The form and manner of proceeding to be observed in bringing before the judges of the Supreme Court by way of review any judgment, decree, sentence, rule, or order against which an appeal may by virtue of the provisions in the Royal Charter of 1833, and in section 42 of this Ordinance contained, be preferred to Her Majesty in her Privy Council;

(2) The form and manner of proceeding to be observed in the Supreme Court at general sessions and at civil and criminal sessions, and in all courts subordinate to it, and the keeping all books, entries, and accounts to be kept in all such subordinate courts, and for the preparation and transmission of any returns or statements to be prepared and submitted by such courts;

(3) The pleading, practice, and procedure where not specially provided for by "The Civil Procedure Code, 1889," or the Criminal Procedure Code, upon all actions, suits, prosecutions, and other matters, civil and criminal, to be brought in the Supreme Court and in all courts subordinate to it;

(4) The proceedings of fiscals and other ministerial officers of the said courts, and the process of the said courts and the mode of executing the same;

(5) The mode of summoning, empanelling, and challenging of assessors and jurors;

(6) Proceedings on arrest in *mesne* process or in execution;

(7) The taking of bail;

(8) The duties of jailers and others charged with the custody of prisoners in so far as respects the making due returns to the respective judges of the Supreme Court of all prisoners in their custody;

(9) The mode of prosecuting appeals;

and generally to frame, constitute, and establish all such general rules and orders as may be necessary for giving full and complete effect to the provisions of this Ordinance, and for regulating any matters relating to the practice and procedure of the said courts not specially provided for by the Civil Procedure Code, 1889, or the Criminal Procedure Code, or to the duties of the officers thereof, or to the costs of proceedings therein, and to frame forms for any proceeding in the said courts for which they think a form should be provided; and all such rules, orders, regulations, and forms to revoke, annul, alter, amend, or renew, as occasion may require: Provided always that no such rules, orders, regulations, or forms shall be repugnant to or inconsistent with any of the provisions in this or any other Ordinance contained.

Proviso.

All rules, orders, regulations, or forms when so framed, revoked, annulled, altered, amended, or renewed as hereinbefore provided, and all rules, orders, regulations, or forms that may hereafter be framed by the Supreme Court under the provisions of any other Ordinance empowering them in that behalf, and whether or not special provision is made in any such Ordinance for the mode in which sanction is to be given to any such rules, orders, regulations, or forms, shall be laid before the Legislative Council if then in session, and if not then in session then so soon as possible after the commencement of the next ensuing session; and if within forty days after their being so laid before the Legislative Council any of such rules, orders, regulations, or forms be objected to by the Legislative Council, the said Council may by resolution annul any such rules, orders, regulations, or forms.

Legislative Council may annul such rules.

Such rules, orders, regulations, and forms as shall not be so annulled by the said Council within the said forty days shall be proclaimed in the *Government Gazette*, and shall come into force upon the publication thereof, or on such other day as may be specified in such Proclamation. Provided always that nothing herein contained shall be deemed in any way to affect the validity of any existing rules, regulations, or forms heretofore duly made and promulgated by the Supreme Court under any authority empowering them in that behalf, except in so far as any such rules, orders, regulations, or forms are by this Ordinance expressly repealed or modified.

54 From and after the commencement of this Ordinance the judges of the Supreme Court collectively may in like manner as in the last preceding section provided with reference to rules, orders, regulations, and forms to be framed and established under such section, revoke, annul, amend,

Judges may amend or revoke rules.

alter, or renew any rules, orders, regulations, or forms heretofore for any of the purposes in such section contemplated, or for any other purpose, framed and established by such judges under the provisions of any previous Ordinance and for the time being in force.

CHAPTER V

District Courts, Courts of Requests, and Police Courts generally.

Establishment.

55 It shall be lawful for the Governor, by any Proclamation to be by him for that purpose issued, to establish within each and every district of the island one court to be called "the district court" of such district, and within each and every division* one court to be called "the court of requests" and another court to be called "the police court;" and each district court, court of requests, and police court shall be holden by and before one person to be called the district judge, commissioner of requests, and police magistrate, respectively, and at such convenient place or places within such district or division as the Governor shall from time to time appoint. Provided always that until the publication of any such Proclamation the district courts, courts of requests, and police courts already respectively established within and for the several districts and divisions mentioned in the first column of schedule II. hereto annexed shall respectively be and continue to be holden at the several places mentioned in the second column thereof. And provided further that nothing in this section contained shall be taken in any way to restrict or curtail any power possessed by a police magistrate under the provisions of any law for the time being in force to hold court at any convenient spot within the limits of the division for which he may be appointed.

More than one judge may be appointed for any court.

56 It shall be lawful for the Governor, as occasion may require, to appoint more than one district judge, commissioner of requests, or police magistrate to the same district court, court of requests, or police court, respectively, or to appoint any district judge, commissioner of requests, or police magistrate to have concurrent jurisdiction with any other such judge, commissioner, or magistrate over any district or districts, division or divisions, or any part thereof, respectively.

Existing courts continued.

And provided further, that the district courts, courts of requests, and police courts already established shall have and exercise the jurisdiction and powers by this Ordinance and by the said Criminal Procedure Code and any other Ordinance for the time being in force vested in and declared to belong to such courts, and no other jurisdiction or power.

Provision for additional judges.

57 Whenever any additional judge, commissioner of requests, or police magistrate shall be so appointed as in the last preceding section provided, then every such additional judge, commissioner, or police magistrate shall have power, and is hereby authorized, to sit apart; and all and every the

* See the enactment contained in section 3 of 1 of 1891

powers and jurisdiction vested in any district court, court of requests, or police court when holden before one judge, commissioner, or magistrate, or in the single judge, commissioner, or magistrate thereof, shall be respectively exercised by every such additional judge, commissioner, or magistrate so sitting apart as aforesaid.

Appointment of judges

58 Every such district judge, commissioner, or magistrate shall be appointed by the Governor from time to time as occasion may require, subject to the pleasure of Her Majesty, and shall hold office during pleasure.

Special criminal jurisdiction as to contempt.

59 Every district court, court of requests, and police court shall, for the purpose of maintaining its proper authority and efficiency, have a special jurisdiction to take cognizance of, and to punish by the procedure and with the penalties in that behalf by law provided, every offence of contempt of court committed in the presence of the court itself, and all offences which are committed in the course of any act or proceeding in the said courts respectively, and which are declared by any law for the time being in force to be punishable as contempts of court.

Appointment of subordinate officers and their suspension

60 The ministerial and other subordinate officers of the said district courts, courts of requests, and police courts, respectively, shall respectively be appointed by the Governor, and shall hold offices during pleasure. But it shall be lawful for any such judge, commissioner, or magistrate to suspend any subordinate officer of his court from office for misconduct or other sufficient cause, and to appoint some other person to act in his stead until the Governor's pleasure shall be made known.

Advocates and proctors.

61 All advocates and proctors entitled to practice in the Supreme Court shall be entitled to practice in any district court, court of requests, or police court; all persons admitted to practice as proctors in any district court shall be admitted to practice in such district court and in any court of requests or police court held within the district over which such district court shall have jurisdiction.

Abolition of district courts and creation of new districts.

62 Whenever any district court shall be abolished, the proctors of such court shall be enrolled in the district court of any one of the districts to or among which the jurisdiction of such abolished district court shall be allotted or distributed, which they may elect; and whenever any new district shall be created, it shall be competent for any proctor of any district court from which any part of such new district is taken to take his name from the roll on which it stands and to have his name enrolled in the district court of such new district.

Abolition or alteration of jurisdiction of court; provision for continuance of cases.

63 Whenever any district court, court of requests, or police court shall be abolished, or its jurisdiction altered, by any Proclamation to be issued by the Governor for that purpose, every cause, suit, action, prosecution, matter, or thing which shall be then depending before such court shall be proceeded upon in the court in which it ought to have been

instituted after any such Proclamation shall have been issued. And all proceedings which shall thereafter be had in such cause, suit, action, prosecution, matter, or thing respectively, shall be conducted in like manner as if such cause, suit, action, prosecution, matter, or thing had been instituted in such last-mentioned court; and all the records, muniments, and proceedings whatsoever belonging or appertaining to any such cause, suit, action, prosecution, matter, or thing shall, after any such Proclamation shall have been issued, be delivered over by the court in which such cause, suit, action, prosecution, matter, or thing shall be then depending, to the court in which such cause, suit, action, prosecution, matter, or thing ought to have been instituted, if it had been instituted after the time when any such Proclamation shall have been issued.

CHAPTER VI.

District Courts.

Jurisdiction of district courts.

64 Every district court shall be a court of record and shall have original jurisdiction in all civil, criminal, revenue, matrimonial, insolvency, and testamentary matters, save and except such of the aforesaid matters as are herein, or by virtue of the provisions of the said Criminal Procedure Code or any other enactment for the time being in force, exclusively assigned by way of original jurisdiction to the Supreme Court, and shall also have jurisdiction over the persons and estates of lunatics, minors, and wards, over the estates of cestuique trusts, and over guardians and trustees, and in any other matter in which jurisdiction has heretofore been, is now, or may hereafter be given to district courts by law.

Civil jurisdiction.

65 Every district court shall have cognizance of and full power to hear and determine all pleas, suits, and actions in which a party defendant shall be resident within the district in which any such suit or action shall be brought, or in which the cause of action shall have arisen within such district, or where the land in respect of which the action is brought lies, or is situate wholly or partly within such district.

Criminal jurisdiction.

66 Every district court shall have full power and authority and is hereby required to hear, try, and determine in manner in the Criminal Procedure Code or any Ordinance amending the same provided, all prosecutions and charges instituted and preferred before it against any person for or in respect of any crime or offence committed wholly or in part within the district in and for which it is held, and which crime or offence is by the said Code or by any law in force in the colony made cognizable by district courts; and on conviction by such court upon any prosecution or charge of any such crime or offence, shall have power and authority to award and impose upon the convicted person such punishment or punishments as by the Ceylon Penal Code or by any

other law for the time being in force such crime or offence is made punishable with, and as by the said Criminal Procedure Code or any Ordinance amending the same such court is made competent to impose.

Power to remove or abate matter of complaint.

67 In every case of continuing offence wherein a district court may legally exercise jurisdiction in respect of the punishment to be inflicted for any crime or offence, such court shall also have authority and jurisdiction to remove or abate the act, matter, or thing complained of.

Revenue jurisdiction.

68 Every district court shall have full power and authority to entertain causes affecting the revenue, and to inquire of all offences whatsoever against the revenue laws of the island, committed wholly or in part within the district over which such court has jurisdiction, and to hear, try, and determine all suits and prosecutions which shall be commenced by the Attorney-General against any person for or in respect of any such offences, and to impose the fines, penalties, and forfeitures appertaining to such offences, although the same may exceed the sum which such court is authorized to impose in the exercise of its ordinary criminal jurisdiction.

Testamentary jurisdiction.

69 Every district court shall have full power and authority—

(1) To appoint administrators of the estates and effects of any persons dying within its district, either intestate, or who may not by any last will or testament have appointed any executor or trustee for the administration of such estates or effects, whether such estates or effects may be within such district or any other district or districts within the island ;

(2) To inquire into and determine upon the validity of any document or documents adduced before it as and for the last will and testament of any person who may have died within its district, and to record the same, and to grant probate thereof ;

(3) To appoint administrators for the administration or execution of the trusts of any such last will or testament as aforesaid in cases where the executors or trustees thereby appointed shall not appear and take out probate thereof, or having appeared and taken out such probate shall have resigned their office or shall by death or otherwise become incapable to carry any such trusts fully into execution ; and

(4) To take proper securities from all executors (whenever it shall seem to the court expedient to require the same) and all administrators of the last wills and testaments of any deceased persons, or of the estates and effects of any persons who may have died intestate, and from the attorneys of any executors who may apply for administration of the last wills and testaments of any deceased persons for the faithful performance of such trusts, and for the

proper accounting in such court for what may come to their hands or be by them expended in the execution thereof, and to call them to account; and when it shall seem to such court expedient, to cause all accounts rendered by them to be duly and carefully audited and examined, and to charge them with any balance which may from time to time remain in their hands applicable for the performance of such trusts, and to enforce the payment thereof, and to take order for the secure investment of any such balances and the apportionment and payment thereof among and to such persons as shall be found entitled to the same, and such administrators from time to time to remove and replace as occasion may require.

Supreme Court to appoint court to exercise sole testamentary jurisdiction in certain cases.

70 When any person shall have died at any place out of the colony leaving property within the colony, it shall and may be lawful for the Supreme Court, or any judge thereof, to make order directing and appointing such district court as to the said Supreme Court, or any judge thereof, shall appear most expedient, to have and exercise sole testamentary jurisdiction in respect of the property of the person so dying, and the court so appointed to have and exercise sole testamentary jurisdiction shall exercise the same.

Powers of transfer.

And where any court shall, under the provisions of the last preceding section, have issued probate of the will or letters of administration of the estate or effects of any person who shall have left property within the jurisdiction of any other court, or where any application for such probate or letters of administration shall have been made to any court, it shall be lawful for the Supreme Court, or any judge thereof, on application showing good grounds therefor, to make order for the transfer of any cause, suit, action, or matter in regard to any such probate or administration so pending in any such court, to such other court; and the court to which the same shall be so transferred shall take cognizance thereof, and have power and jurisdiction in all respects with regard thereto as effectually to all intents and purposes as the court which originally had cognizance of the same.

Custody of persons and estates of idiots, lunatics, &c.

71 Every district court shall have the care and custody of the persons and estates of all idiots and lunatics and others of insane and non-sane mind resident within its district, with full power to appoint guardians and curators of all such persons and their estates, and to make order for the maintenance of such persons and the proper management of their estates, and to take proper securities for such management from such guardians and curators, and to call them to account, and to charge them with any balance which may be due to any such persons as aforesaid, or to their estates, and to enforce the payment thereof, and to take order for the secure investment of any such balances; and such guardians and curators from time to time to remove and replace as occasion may require.

Also in the like manner, and with the same powers, the care of the persons of minors and wards, and the charge of their property within its district shall be subject to the jurisdiction of the district court.

And of minors and wards.

72 It shall be lawful for the district judge in his discretion, at his own instance, or upon the application of any party in any cause or proceeding in the district court, to have three assessors associated with him at the hearing and decision of such cause or other proceeding, and such assessors shall be selected and summoned, and shall be otherwise subject to such rules as may be made by the judges of the Supreme Court as hereinbefore provided. But in case of any difference of opinion between such judge and assessors, the judgment of the judge shall prevail.

Assessors.

73 Whenever any defendant or accused party shall have pleaded in any cause, suit, or action, or in any prosecution brought in any district court, without pleading to the jurisdiction of such district court, neither party shall be afterwards entitled to object to the jurisdiction of such court, but such court shall be taken and held to have jurisdiction over such cause, suit, action, or prosecution: Provided that where it shall appear in the course of the proceedings that the cause, suit, action, or prosecution was brought in a court having no jurisdiction intentionally and with previous knowledge of the want of jurisdiction of such court, the judge shall be entitled at his discretion to refuse to proceed further with the same, and to declare the proceedings null and void.

Objection to jurisdiction.

74 If any action or suit shall be commenced in any district court for any debt or demand which might have been recovered in some court of requests, the plaintiff or plaintiffs in any such action or suit shall not by reason of any judgment for him or them, or otherwise, have or be entitled to any costs whatever, but it shall be competent for the judge to make such order as to costs as justice may require.

Penalty for proceeding in district court where case cognizable by court of requests.

75 Subject to the provisions in that behalf in the Criminal Procedure Code or any Ordinance amending the same provided, any party who shall be dissatisfied with any judgment, decree, or order pronounced by a district court may (excepting where such right is expressly disallowed) appeal to the Supreme Court against any such judgment, decree, or order from any error in law or in fact committed by such court, but no such appeal shall have the effect of staying the execution of such judgment, decree, or order unless the district judge shall see fit to make an order to that effect, in which case the party appellant shall enter into a bond, with or without sureties as the district judge shall consider necessary, to appear when required and abide the judgment of the Supreme Court upon the appeal.

Appeal.

When to suspend judgment or sentence.

76 The district courts respectively shall in all cases of appeal to the Supreme Court conform to and execute all such judgments, orders, and decrees of the Supreme Court as shall be made and pronounced in appeal, in like manner as any original judgment, order, or decree pronounced by the said district courts could or might have been executed.

District court to execute judgments, &c., in appeal.

CHAPTER VII.

Courts of Requests.

Jurisdiction.

77 Every court of requests shall be a court of record and shall have original jurisdiction, and shall have cognizance of and full power to hear and determine all actions in which the debt, damage, or demand shall not exceed one hundred rupees, and in which the party or parties defendant shall be resident within the jurisdiction of such court, or in which the cause of action shall have arisen within such jurisdiction: and also all actions for the partition or sale of land and all actions in which the title to, interest in, or right to the possession of any land shall be in dispute, provided that the value of such land or of the particular share, right, or interest in dispute in such action shall not exceed one hundred rupees, and the same or any part thereof is situate, or the party or parties defendant shall be resident, within the jurisdiction of such court. Provided always that such court shall not have cognizance of any action for criminal conversation, or for seduction, or for breach of promise of marriage, or for separation *a mensâ et thoro*, or for divorce *a vinculo matrimonii*, or for avoidance of marriage.

Proviso.

Wages recoverable without limit in court of requests: minors may sue.

78 All claims for any sums due to any person for wages, or for piecework, or for work as a servant, artificer, or labourer, whatever shall be the amount claimed, may be prosecuted and recovered before a court of requests having in other respects jurisdiction in that behalf: and any such claim may be prosecuted and recovered in such court by a person not of full age, in the same manner as if he were of full age, or by a married woman in the same manner as if she were a *feme sole*.

Costs.

79 It shall be lawful for the commissioner of every such court, in pronouncing his judgment or order in any case, to make such order respecting the payment of costs and expenses as to him shall appear just and reasonable, subject to such rules as may be framed by the judges of the Supreme Court by virtue of the powers in them in that behalf hereinbefore vested.

Appeal.

80 Any party who shall be dissatisfied with any final judgment, or any order having the effect of a final judgment, pronounced by the commissioner of any court of requests may (excepting where such right is expressly disallowed) appeal to the Supreme Court against any such judgment or order for any error in law or in fact committed by such commissioner.

Transfer where defence or claim in reconvention beyond jurisdiction of court.

81 Where in any proceeding before any court of requests any defence or claim in reconvention of the defendant involves matter beyond the jurisdiction of the court, such defence or claim in reconvention shall not affect the competence or duty of the court to dispose of the matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the court has jurisdiction to administer shall be given to the defendant upon any such claim in reconvention: Provided always that in such case it shall be lawful for the Supreme

Court, or any judge thereof, if it shall be thought fit, on the application of any party to the proceeding, to order that the whole proceeding be transferred from the court in which it shall have been instituted to some court having jurisdiction over the whole matter in controversy : and in such case the record in such proceeding shall be transmitted by the clerk of the court to the court to which by such order the proceeding shall be so transferred : and the same shall thenceforth be continued and prosecuted in such court as if it had been originally commenced therein.

Commissioner to execute judgments, &c. in appeal.

82 The commissioner of every court of requests shall conform to and execute all such judgments, orders, and decrees of the Supreme Court as shall be made and pronounced in any appeal, in like manner as any original judgment or order pronounced by the said commissioner could or might have been executed.

CHAPTER VIII.

Police Courts.

Powers and jurisdictions

83 Every police court shall have and exercise all powers and authorities and perform all duties which police courts are empowered and required to have, exercise, and perform by virtue of the provisions of the Ceylon Penal Code or of the Criminal Procedure Code, or of any other Ordinance for the time being in force in any way empowering or requiring them in that behalf.

Justices of the Peace.

Justices of the peace

84 The Governor and the officers (whether holding office permanently or temporarily) enumerated in schedule IV. hereto shall be *ex-officio* justices of the peace for the island or for such portion thereof respectively as is shown by the statements in the said schedule severally set opposite to their respective denominations. It shall be further lawful for the Governor, from time to time by notice in the *Government Gazette*, to appoint such persons as shall be named in such notice to act as justices of the peace for the island, or within such districts or portions thereof as to the said Governor shall seem expedient. Every justice of the peace shall take and subscribe the oaths of allegiance and office in the form by Ordinance No. 7 of 1869 prescribed, before some district judge, commissioner of requests, or police magistrate, and every such judge, commissioner, or magistrate is hereby empowered and required, upon application in that behalf, to administer the same, and to enter in the records of his court that the said oaths were duly administered and taken before him, and forthwith to transmit a copy of every such entry to the Registrar of the Supreme Court, to be entered in the records of that court. And the Governor may at any time remove any person so appointed to act as such justice of the peace from his said office.

Their powers.

85 Every justice of the peace shall have power, and is hereby required, to administer any oath which any person may be legally entitled to make before a justice of the peace.

CHAPTER IX.

Miscellaneous.

Sittings to be public.

Exception.

86 The sittings of every court within this colony shall be public, and all persons may freely attend the same, except that in all proceedings and trials in cases for divorce, on account of adultery, or for seduction, abortion, rape, assault with intent to commit rape, criminal conversation, unnatural offences, and bastardy, the court may, in its discretion, exclude therefrom all persons who are not directly interested therein, excepting advocates, proctors, jurors, assessors, witnesses, and officers of the court.

Powers of court to grant injunctions.

87 In any action instituted in any district court or court of requests—

(1) Where it appears from the plaint that the plaintiff demands and is entitled to a judgment against the defendant restraining the commission or continuance of an act or nuisance the commission or continuance of which would produce injury to the plaintiff; or

(2) Where it appears that the defendant during the pendency of the action is doing or committing, or procuring or suffering to be done or committed, or threatens or is about to do or procure or suffer to be done or committed, an act or nuisance in violation of the plaintiff's rights respecting the subject-matter of the action and tending to render the judgment ineffectual; or

(3) Where it appears that the defendant during the pendency of the action threatens or is about to remove or dispose of his property with intent to defraud the plaintiff—

it shall be lawful for such court, on its appearing by the affidavit of the plaintiff or any other person that sufficient grounds exist therefor, to grant an injunction restraining any such defendant from—

(1) Committing or continuing any such act or nuisance;

(2) Doing or committing or procuring or suffering to be done or committed any such act or nuisance;

(3) Removing or disposing of such property.

For the purposes of this section, any defendant who shall have by his answer set up any claim in reconvention, and shall thereupon demand an affirmative judgment against the plaintiff, shall be deemed a plaintiff, and shall have the same right to an injunction as he would have in an action brought by him against the plaintiff for the cause of action stated in the claim in reconvention, and the plaintiff shall be deemed the defendant and the claim in reconvention the plaint.

When to be granted.

88 Such injunction may be granted to accompany the summons, or at any time after the commencement of the action and before final judgment, and with or without notice in the discretion of the court, unless the defendant has answered, in which case it shall be granted only upon notice

or an order to show cause; and where an application for an injunction is made upon notice or an order to show cause, either before or after answer, the court may grant an injunction restraining the defendant until the hearing and decision of the application.

Provision for continuing any case begun before a judge becoming disabled.

89 In case of the death, sickness, resignation, removal from office, absence from the island, or other disability of any judge before whom any cause, suit, action, prosecution, or matter, whether on an inquiry preliminary to committal for trial or otherwise, has been instituted or is pending, such cause, suit, action, prosecution, or matter may be continued before the successor of such judge, who shall have power to act on the evidence already recorded by such first-named judge or partly recorded by such first-named judge and partly recorded by himself, or, if he think fit, to re-summon the witnesses and commence afresh. Provided that in any such case, except on an inquiry preliminary to committal for trial, either party may demand that the witnesses shall be re-summoned and re-heard, in which case the trial shall be commenced afresh.

Provision for hearing of cases where judge, &c., is a party.

90 Except with the consent of both parties thereto, no judge shall be competent, and in no case shall any judge be compellable, to exercise jurisdiction in, or to hear, try, or determine any cause, suit, action, or prosecution, or to hold any inquiry into, or commit any person for trial upon, any charge to or in which he is a party or personally interested: and except as is by the provisions of this Ordinance and of "The Civil Procedure Code, 1889," provided with regard to the hearing of judgments in review preliminary to appeals to Her Majesty in her Privy Council, no judge shall hear an appeal from, or review any judgment, sentence, or order passed by himself. When any judge so a party or personally interested is a judge of the Supreme Court, the cause, suit, action, or prosecution to or in which he is so a party or interested, or in which an appeal from his judgment shall be preferred, shall be heard, tried, and determined by some other judge or judges of the said court; in every other case, the district court, court of requests, or police court of any adjoining district or division shall have jurisdiction to hear, try, and determine any such cause, suit, action, or prosecution, or to inquire into and commit for trial upon any such charge.

The question whether a judge is personally interested in a case shall be decided by the principles of the law of England applicable to the same question in England.

Demands not to be divided.

91 It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more actions in a court of requests; but any plaintiff having cause of action for an amount exceeding the amount in respect of which a court of requests is herein declared to have jurisdiction, may abandon the excess, and shall thereupon, on proving his case in such court of requests, recover to an amount not exceeding the amount in respect of which such court shall so have jurisdiction; and the judgment of the

court shall be in full discharge of all demands in respect of such cause of action, and entry shall be made in the judgment accordingly.

Conviction or acquittal no bar to any civil action.

92 Neither the alleged commission of a crime or offence, nor the conviction nor the acquittal of any person of a crime or offence, shall be a bar to a civil action for damages against such person at the instance of any person who may have suffered any injury, or who may allege that he has suffered any injury, from or by reason of the commission of any such crime or offence.

In what court offences declared punishable by fine or imprisonment generally may be tried.

93 Where any crime or offence is declared by any Ordinance to be punishable by such punishment as the court before which a conviction therefor shall be obtained shall award, or by such fine or imprisonment as the court before which such conviction shall be obtained shall award, such crime or offence may be tried in any court having criminal jurisdiction which the Attorney-General may elect for the prosecution of such crime or offence, jurisdiction for such purpose being hereby given to such court; but the accused person shall, in case of conviction, receive no larger amount of fine or longer term of imprisonment than the court by which he is tried shall be empowered to award in the exercise of its ordinary jurisdiction. Such right of electing the court may be exercised by the Attorney-General, though the maximum punishment, if the same be prescribed, shall exceed that which a police or district court is empowered to award.

SCHEDULE I.

Ordinances, Sections of Ordinances, and Rules of Court repealed.

No. and Year.	Title.	Extent of Repeal.
Ordinances.		
10 of 1844 ...	Arrack, Rum, and Toddy ...	Section 25
8 of 1846 ...	Administration of Justice (Rules of Court)	The whole
11 of 1868 ...	Administration of Justice ...	So much as has not been already repealed by No. 3 of 1883
11 of 1871 ...	Kandy Sessions ...	The whole
3 of 1872 ...	Kandy Sessions ...	The whole
19 of 1873 ...	Advocates	The whole
16 of 1880 ...	Commissioners of Assize ...	The whole
3 of 1883 ...	Criminal Procedure ...	Sections 19, 20, 453, 487, 488, 497, 498, 508
Rules of Court.		
Oct. 1, 1833 ...	Appellate Jurisdiction (p. 55) ...	1–5, so far as the same are now in force
	Criminal Jurisdiction (pp. 57–59)	1–12
Nov. 25, 1835...	Advocates (pp. 114–115) ...	1–4
Dec. 30, 1841...	Admission of Advocates and Proctors (pp. 126–128)	The whole
Dec. 23, 1844...	Enrolment of Proctors on new subdivision of Circuits (p. 155)	The whole

SCHEDULE II.

Limits of Districts and Divisions.

DISTRICTS.

Western Circuit.

District.	Court held at	Limits of Jurisdiction.
Colombo	Colombo	The harbour, and the town of Colombo within the municipal limits, and the revenue district of Colombo, excluding so much of the Alutkúru kóralé as is situate north of the Jáęla-oya and the Vidáne villages of Bemmulla and Galgomuwa of the Siyané kóralé.
Negombo	Negombo	The harbour, and town of Negombo, and the revenue district of Negombo, and so much of the Alutkúru kóralé as is situate north of the Jaęla-oya, and the Vidáne villages of Bemmulla and Galgomuwa of the Siyané kóralé.
Kalutara	Kalutara	The revenue district of Kalutara.
Ratnapura	Ratnapura	The revenue district of Ratnapura.
Chilaw	Chilaw	The revenue district of Chilaw.
Puttalam	Puttalam	The revenue district of Puttalam.
		Midland Circuit.
Kandy	Kandy	The Central Province.
Kégalla	Kégalla	The revenue district of Kégalla.
Kurunégala	Kurunégala	The Seven Kóralés.
Badulla	Badullaa	The Province of Uva.
Anurádhapura	Anurádhpura	The North-Central Province.
		Northern Circuit.
Jaffna	Jaffna	The revenue district of Jaffna.
Mannár	Mannár	The revenue district of Mannár.
Mullaittívu	Mullaittívu	The revenue district of Mullaittívu.

District.	Court held at	Limits of Jurisdiction.
Vavuṇiya-Viláṇkulam	Vavuṇiya-Viláṇkulam	The revenue district of Vavuṇiya-Viláṇkulam.
Trincomalee	Trincomalee	The harbour, and the revenue district of Trincomalee.
Batticaloa	Batticaloa	The harbour, and the revenue district of Batticaloa.
		Southern Circuit.
Galle	Galle	The harbour, and the town of Galle within the municipal limits, and the revenue district of Galle.
Mátara	Mátara	The revenue district of Mátara.
Taṇgalla	Taṇgalla	The revenue district of Hambantoṭa.

DIVISIONS.

Division.	Court (Police Court and Court of Requests) held at	*Western Circuit.*
Colombo	Colombo	The judicial district of Colombo as hereinbefore defined, excluding those portions of the Salpiṭi, Héwágam, and Siyaṇé kóralés which are hereinafter respectively assigned to the several divisions of Pánaduré and Avisáwélla.
Negombo	Negombo	The judicial district of Negombo as hereinbefore described, excluding the Hápiṭigam kóralé.
Pánaduré	Pánaduré	The Rayigam kóralé, Pánaduré toṭamune, and that portion of the Salpiṭi kóralé lying south of the village Angulána and of the road leading from the Wéwala ferry to the Lunáwa bridge near the tenth milepost on the Galle road, and thence to the Mámpe road and from it to Mattégoḍa.
Kalutara	Kalutara	The judicial district of Kalutara as hereinbefore defined, excluding the Rayigam kóralé and Pánaduré toṭamune.
Avisáwélla	Avisáwélla and Pasyála	The Hápiṭigam kóralé, the Uḍugaha pattu of Siyaṇé kóralé, and the Uḍugaha pattu of Héwágam kórále; so much of the Gaṇgaboḍa pattu of the Siyaṇé kóralé as is situate east of the road from Haṇwella to Attanagala; (concurrently with the Minor Courts of Colombo) the Meda pattu of Héwágam kóralé; (concurrently with the Minor Courts of Kégalla) the Three Kóralés and Lower Bulatgama; and (concurrently with the Minor Courts of Ratnapura) the Kuruwiṭi kóralé.

Ratnapura	Ratnapura and Rakwána	The judicial district of Ratnapura as hereinbefore defined.
Chilaw	Chilaw and Máráwila	The judicial district of Chilaw as hereinbefore defined.
Puttalam	Puttalam	The judicial district of Puttalam as hereinbefore defined.

Midland Circuit.

Anurádhapura	Anurádhapura	The judicial district of Anurádhapura as hereinbefore defined.
Badulla	Badulla	The judicial district of Badulla as hereinbefore defined, except such portions thereof as are herein expressed to be included within the jurisdiction of the Police Court and Court of Requests of Haldummulla and Nuwara Eliya respectively.
Dumbara	Paṇwila and Urugala	The revenue divisions of Páta Dumbara and Uḍa Dumbara.
Galagedara	Galagedara	In the Central Province the revenue division of Tumpané and Hárispattu, except Kalugammanasiya pattu; in the North-Western Province, Máduré kóralé, Węuḍa kóralé, Gannawe kóralé, Gandáhaye kórale, and Héwáwissé kóralé.
Kurunęgala	Kurunęgala	The judicial district of Kurunęgala as hereinbefore defined, except such portions thereof as are herein expressed to be included within the jurisdiction of the Police Court and Court of Requests of Galagedara.
Kęgalla	Kęgalla	The judicial district of Kęgalla as hereinbefore defined. (The jurisdiction of these courts over the Three Kóralés and Lower Bulatgama is concurrent with that of the courts at Avisáwélla.)
Gampola	Gampola and Pussęlláwa	The revenue division of Uḍapaláta, the revenue division of Uḍa Bulatgama, except that part of the Ambagamuwa kóralé herein expressed to be within the jurisdiction of the Police Court and Court of Requests of Hatton; the Pallépané kóralé of Kotmalé and (concurrently with the Police Court and Court of Requests of Kęgalla) the villages of Deyyanéwela, Aranáyaka, Aramasáláwa, Dambela-węwa, Kehelpannala, and Bulatgama, and the estates Bókanda, Gaḍadęssa, Wakkattetęnna, Roslin, Alpitikanda, Góna-adika, Konniboḍa, Paranawela, Kękunigoḍa, Franklands, Kandal-oya, and Panápitiya.
Haldummulla	Haldummulla	That portion of the revenue district of Badulla which comprises the Kandapallé, Wellawáya, and Kóngala Bintęnna kóralé of the Kandapallé division, the Maha and Dambawini paláta of Uḍukinda, and so much of Kumbalwela paláta as lies to the south of the road from Ratnapura to Badulla, and to the west of the road *viâ* Ella from Badulla to Hambantoṭa.

Division.	Court (Police Court and Court of Requests) held at	Limits of Jurisdiction.
Hatton	... Hatton ...	... Those portions of Ambagamuwa kóralé of the revenue division of Uḍa Bulatgama and of the Uḍapané kóralé of the revenue division of Kotmalé contained within the following boundaries :—

North.—Dimbula gap (between the 13th and 14th mileposts on the main road from Náwalapiṭiya to Nuwara Eliya), northern boundary of Kelawatta estate, short cut round Dimbula to junction at Hinmal-oya, the Hinmal-oya, Kotmalé-gaṇga, northern boundaries of Hunugala or Yoxford and Wattagoḍa estates, a direct line from Wattagoḍa to the ridge, and along the forest ridge to the Great Western Peak.

East.—A straight line from the watershed to the boundary between Waṇgi-oya and Galkandawatta estates, and along the boundary of these estates to the Nánu-oya.

North-east.—The Nánu-oya (river), Dimbuldanḍa-oya (river), to the western boundary of Abbotsford, thence along the eastern boundary of Lorne estate, northern boundary of Cymru, Taṇgakęlé by the Maha Eliya ridge above Taṇgakęlé and Kellyhill estates, and the eastern boundary of Kellyhill to its junction with Dambagastaláwé-oya, Dambagastaláwé-oya (river) to the railway gorge, thence along the Sudugala ridge to the Horton Plains by the watershed.

South.—The boundary between the Central and Western Provinces: from near the Horton Plains trigonometrical station No. 2 along the Kirigalpotta watershed to the spur of the ridge dividing Dimbula and Dikoya, thence along the watershed to the gap on the bridle road from Balaṇgoḍa to Dikoya, and the continuation of this watershed by the Eṭamorawa Peak. Dotalukanda, to the peak "Bena Samanalagala."

West.—The boundary between the Central and Western Provinces, viz., the watershed by Adam's Peak to a point on the ridge opposite to the south-western corner of Elfindale estate, thence a straight line to the estate, and along its north-western boundary to the Maskeliya-gaṇga, thence along the northern boundary of Laxapana estate (title plan 45,094) and of title plans 105 476 and 105,475, called Alu-oya Egoḍakęlé, and on to the ridge which forms the watershed between the valleys of the Kehelgamuwa-oya and Maskeliya-gaṇga, thence along the watershed, which is also the boundary of Aberdeen estate, to its junction with Lovat.

		North-west.—The southern boundary of Lovat estate (title plan 105,875) to Kehelgamuwa-oya, southern boundary of title plan 105,876 and Killin estate (title plan 109,907) to Sevelagalkanda trigonometrical station, southern boundary of Adelaide estate (title plan 109,634) to the western boundary of Trafalgar estate (title plan 44,494) and Pitcorthy, thence along northern boundary of Glenalva to near the 13th milepost on the main road to Dikoya, and across the Mahaveli-ganga and railway line, thence along the northern boundary of Watawala to Templestowe, the northern boundary of Rozelle to the stream on the south-western boundary of Wighton estate, along the western boundary of Wighton, and thence along the forest ridge of Rilágala, the boundary between Union and Kellawatta, and the Queensbury estate to the Dimbula gap.
Kandy ...	Kandy	The revenue divisions of Udunuwara, Yatinuwara, Páta Héwáheta, and the Kalugammanasiya pattu of Hárispattu.
Mátalé ...	Mátalé	The revenue district of Mátalé.
Nuwara Eliya...	Nuwara Eliya and Maturata	The revenue divisions of Uda Héwáheta and Walapané and that part of the Udapané kóralé of the revenue division of Kotmalé not herein expressed to be included within the jurisdiction of the Police Court and Court of Requests of Hatton; and those parts of Udapalsta and Yatipaláta of the revenue division of Udukinda contained within the following boundaries :—
		South-west and South.—Maha Eliya ridge between Calsay and Kellyhill estates, eastern boundary of Kellyhill to its junction with the Dambagastaláwa-oya, the Dambagastaláwa-oya to the railway gorge, thence along the Sudugala ridge and the Totapola ridge to the crossing of the bridle path from Nuwara Eliya.
		East.—Bridle path from Nuwara Eliya to the Horton Plains to where it first reaches and crosses the Dambagastaláwa-oya below Totapola, a line drawn thence to the Ambawela lower ela, the courses of the said ela, and a line drawn from it to the 57th milepost on the Nuwara Eliya-Badulla road.
		North-east and East.—The Nuwara Eliya-Badulla road to the boundary of the Nuwara Eliya revenue district, thence a straight line to the centre of the ridge forming the boundary of Walapané above Gracelyn estate.

Division.	Court (Police Court and Court of Requests) held at	Limits of Jurisdiction.
		Northern Circuit.
Jaffna ..	Jaffna and Mallákam ...	The town of Jaffna and the revenue divisions of Valikámam north, east, and west, and Púnakari. (The Police Court of Jaffna has concurrent jurisdiction with those of Point Pedro and Kayts.)
Point Pedro ...	Point Pedro and Chavakachchéri	The revenue divisions of Vaḍamiráchchi, Tenmiráchchi, and Pachchilipallai.
Kayts ...	Kayts	The islands within the judicial district of Jaffna as hereinbefore defined.
Mannár ...	Mannár	The judicial district of Mannár as hereinbefore defined
Mullaittívu ...	Mullaittívu ...	The judicial district of Mullaittívu as hereinbefore defined.
Vavuṇiya-Vilánkulam ...	Vavuṇiya-Vilánkulam ...	The judicial district of Vavuṇiya-Vilánkulam as hereinbefore defined.
Trincomalee ...	Trincomalee ...	The judicial district of Trincomalee as hereinbefore defined.
Batticaloa ...	Batticaloa ...	The judicial district of Batticaloa as hereinbefore defined.
		Southern Circuit.
Galle ...	Galle	The judicial district of Galle as hereinbefore defined, excluding such portion thereof as is hereinafter expressed to be included within the jurisdiction of the Minor Courts at Balapiṭiya.
Balapiṭiya ...	Balapiṭiya ...	Bentoṭa-Walalláwiṭi kóralé and the northern division of the Weḷlaboḍa pattu of Galle, being that bounded on the south and east by the Hikkaḍuwa river, the Gonápínuwela canal, and the principal road to Halpatoṭa.
Mátara ...	Mátara	The judicial district of Mátara as hereinbefore defined.
Taṇgalla ...	Taṇgalla	Giruwá pattu east and Giruwá pattu west.
Hambantoṭa ...	Hambantoṭa ...	Mágam pattu.

SCHEDULE III.

Rules referred to in Section 18.

COUNCIL OF LEGAL EDUCATION, EXAMINERS AND LECTURERS.

1. There shall be a Council of Legal Education, which shall consist of the judges of the Supreme Court, the Attorney-General, the Solicitor-General, and of such other persons of standing in the legal profession as the said judges may appoint. Members so appointed shall go out of office on the last day of December of the third year from their appointment, and be succeeded by other members, who shall be appointed once in every three years. Any outgoing member shall be eligible for re-appointment. It shall be the duty of the Council to supervise and control the legal education of students desiring to qualify themselves as advocates or proctors, subject to the provisions herein contained.

2. The Council shall appoint a competent officer as secretary to the Council, who shall be in charge of the records, fees, and other property belonging to the Council, and carry out the instructions of the Council. He shall keep a record of the proceedings of the meetings of the Council and a full minute of all its orders and resolutions. He shall give not less than two days' notice of a meeting of the Council to each member thereof, and shall specify the subjects to be considered at such meeting. The minutes of each meeting shall be read at the next meeting and, after confirmation, attested by the chairman.

3. The Council of Legal Education may from time to time by resolution appoint such competent persons as to the Council may seem fit to be examiners to assist the Council in the several examinations which the Council may hold, and the Council may at pleasure remove any examiner so appointed. And to every examiner not being a member of the Council there shall be paid out of the fees received by the Council such remuneration as it may from time to time by resolution prescribe.

4. The Council shall in the month of January every year appoint such competent persons, not less than three nor more than five, as to the Council may seem fit, as lecturers, and the Council may at pleasure remove any lecturer so appointed. To every lecturer there shall be paid out of the fees aforesaid such remuneration as the Council may from time to time by resolution prescribe. The lectures shall be upon the Laws of Ceylon relating to the following subjects :—(*a*) Law of Persons, (*b*) Law of Property, (*c*) Law of Obligations, (*d*) Law of Evidence and Pleading, (*e*) Administration and Bankruptcy, and upon (*f*) Jurisprudence and (*g*) International Law.

The lecturers shall from time to time examine the students in the subject-matter of the lectures delivered, and ascertain the progress made by each student.

QUALIFICATION AND ADMISSION OF PROCTORS.

Preliminary Examination.

5. Except as is hereinafter provided, no person shall be admitted to qualify himself as a proctor unless he shall have (1) completed his seventeenth year ; (2) produced a satisfactory certificate of good character ; and (3) passed a preliminary examination in the subjects hereinafter prescribed ; but candidates who are graduates of some university in the United Kingdom or a British Colony or India, or who have passed the Matriculation Examination of the London University, or the First Examination in Arts of any of the Indian universities, or the Senior Local Examination of the Cambridge or Oxford University, shall be exempted from such preliminary examination.

6. No candidate shall be admitted to the preliminary examination unless he has previously paid to the secretary of the Council a fee of thirty rupees. If after payment of the fee the candidate withdraws his name, or fails to present himself at the examination, or to pass it, the fee shall not be returned to him, but he shall be allowed to enter for any subsequent preliminary examination upon payment at every such entry of an additional fee of fifteen rupees, provided he gives notice to the said secretary of his desire to enter at least one calendar month before the commencement of the examination.

7. The Council shall hold two preliminary examinations every year in the months of January and July, on such days in those months respectively as the Council may appoint and duly notify at least one month before such examination.

8. The preliminary examination shall be conducted principally by means of papers in the following subjects:

English Grammer and Composition.

One of the following subjects at the option of the candidate, to be signified to the secretary at least one month before the examination :—Latin (grammar and the first two books of Virgil's Æneid or the first book of Livy), or the elementary principles of any of the Experimental Sciences (physics, or chemistry, or physiology), or Natural History Sciences (zoology, or mineralogy, or botany).

English History, including the elements of Constitutional History.

Green's Short History of the English People.

Creasy's English Constitution.

Arithmetic and the first three books of Euclid.

Logic (Deductive) :—

Fowler's Deductive Logic.

Candidates shall not be passed unless they have shown a fair knowledge in each of the subjects of examination, and have obtained in the aggregate 50 per cent. of the maximum marks.

9. The examiners shall report to the Council upon the proficiency and fitness of the several candidates examined at the preliminary examination, and the Council shall thereafter resolve that a report in the form A, signed by the secretary, shall be delivered to such candidates as the Council shall deem worthy of entering upon the study of the law.

10. The candidate so passed shall be registered a student-at-law, and be entitled to attend the various lectures which may be given by the lecturers, on payment to the secretary of a fee of three hundred rupees, and upon entering into a bond with two good sureties to pay to the said officer a further fee of three hundred and fifty rupees eighteen months after the admission of such candidate as student.

Intermediate Examination.

11. Two intermediate examinations shall be held every year in the months of January and July, on such days in those months respectively as the Council may appoint and duly notify at least one month before such examination.

12. No student shall be admitted to such examination until eighteen months shall have elapsed after his admission as student, and unless he produces a certificate or certificates from the law lecturers appointed in that behalf by the Council that he has attended a course of lectures on Jurisprudence, the Law of Persons, and the Law of Property, and is fit to undergo a public examination in those subjects.

13. The intermediate examination shall be conducted principally by means of papers in the aforesaid subjects, to wit :

Jurisprudence :

The Elements of Jurisprudence, by Prof. T. E. Holland.

Law of Persons and Property :

Mackenzie's Studies in Roman Law, parts I. and II., together with the Historical Sketch of the Roman Law.

Blackstone's Commentaries on the Laws of England, edited by Kerr or Broom and Hadley, vol. I.

Vanderlinden's Institutes, edited by Henry, pp. 55–186.

Local Ordinances on the subject.

14. There shall be at least one paper of questions on Jurisprudence and two on the Law of Persons and Property. Candidates failing to obtain 40 per cent. of the maximum marks on each paper and 50 per cent. of the aggregate of the maximum marks on all the papers shall not be entitled to a pass.

15. The examiners shall report to the Council upon the marks earned by, and the proficiency and fitness of, the several candidates examined at the intermediate examination, and the Council shall thereafter resolve that certificates in the form B, signed by the secretary, shall be delivered to such candidates as the Council may deem to have passed a satisfactory examination.

16. In the event of the candidate failing to satisfy the Council, and desiring to enter for any ensuing intermediate examination, he shall pay a fee of fifty rupees to the secretary at least one month before such examination, and a similar fee of fifty rupees for every other intermediate examination for which he may enter.

17. If a candidate who has passed the intermediate examination shall not have paid at its due date the fee of three hundred and fifty rupees referred to in the 10th section, the name of such candidate shall be removed from the register of students and he shall forfeit his right to attend the lectures of the lecturers, or to present himself for any other examination herein appointed : Provided, however, that the Council may, if special circumstances exist, order otherwise and put the said candidate upon such terms as to the Council may seem fit.

Final Examination.

18. Two final examinations shall be held every year in the months of January and July, on such days in those months respectively as the Council may appoint and duly notify at least one month before such examination.

19. No student shall be admitted to such examination until eighteen months shall have elapsed after his passing the intermediate examination, and unless he produces a certificate under the hand of the secretary that he has paid all fees due to the Council, and certificates from the law lecturers appointed in that behalf by the Council that he has attended a course of lectures on the Law of Obligations, the Law of Evidence and Pleading, and Administration and Bankruptcy, and is fit to undergo a public examination in those subjects.

20. The final examination shall be conducted principally by means of papers in the following subjects :

Law of Persons and Property :

Vanderlinden's Institutes, edited by Henry, pp. 55–186.

Snell's Principles of Equity, part IV.

Chalmer's Digest of the Law of Bills of Exchange, Notes, and Cheques.

The local Ordinances.

Law of Obligations :
Mackenzie's Studies in Roman Law, part III.
Pollock's Principles of Contracts.
Vanderlinden's Institutes, edited by Henry, pp. 187–277.
Broom's Commentaries on the Common Law, book III. (on Torts).

Law of Evidence :
Best on Evidence, Stephen's Digest.

Civil Procedure, including Pleadings.
Criminal Law and Procedure.
Bankruptcy and Administration.

21. There shall be at least one paper in each of the following subjects :

The Law of Persons, the Law of Evidence, the Law of Pleadings, Civil Procedure, Criminal Law and Procedure, Bankruptcy and Administration ;

and two papers at last on each of the following subjects :

The Law of Property and the Law of Obligations.

22. Candidates failing to obtain 40 per cent. of the maximum marks on each subject and 50 per cent. of the aggregate of the maximum marks on all the papers shall not be entitled to a pass.

23. The examiners shall report to the Council upon the marks earned by, and the proficiency and fitness of, the several candidates examined at the final examination, and the Council shall thereafter resolve that a certificate in the form C, signed by the secretary, shall be delivered to such candidates as the Council may deem to have passed a satisfactory examination.

24. In the event of the candidate failing to satisfy the Council, and desiring to enter for any ensuing final examination, he shall pay a fee of fifty rupees to the secretary at least one month before such examination, and a similar fee of fifty rupees for every other final examination for which he may enter.

Admission as Proctor.

25. Every person who shall intend to apply for admission as proctor of any district court shall, six weeks at least before he shall so apply, give notice of such his intention to the Registrar of the Supreme Court, and shall cause his name and place of abode written in legible characters to be posted up at the registry of the Supreme Court, and also on one of the outside doors of the court-house, and shall also cause the notice of his intended application to be published once at least in the *Ceylon Government Gazette* and in some English newspaper published in Colombo.

26. Every such application shall be in the form of a petition to the Supreme Court, to which shall be annexed (1) the certificates A, B, and C referred to in rules 9, 15, and 23 ; (2) an affidavit that he is the identical person mentioned in the said certificates, that he has attained the age of 21 years, and that since passing the final examination he has well and truly served as clerk, for a period of at least six months, a proctor of the Supreme Court practising in Colombo ; and (3) a certificate from such proctor that the applicant during his period of service has discharged his work as clerk with diligence.

27. The Supreme Court shall thereupon direct the Registrar to inquire and report whether the applicant is of good repute, and whether there exists any impediment or objection to the enrolment of such applicant as proctor. Upon a report being made, the Supreme Court shall either direct the applicant to be sworn, admitted, and enrolled as proctor, or make such other order as the circumstances of the case may require.

28. A proctor of the district court who has practised the profession for a period of not less than two years may be enrolled a proctor of the Supreme Court by applying to the Supreme Court to be so enrolled. Six weeks at least before he makes such application he shall conform to the requirements specified in rule 25, and he shall also furnish a certificate under the hand of the district judge, or a commissioner or magistrate of the district in which he has been enrolled, that the applicant has practised the profession before him for the space of two years, and that the name of the applicant still remains on the roll of the district court.

29. Every such application shall be referred by the Supreme Court to the Council of Legal Education, who shall cause the said applicant to be fully examined in the subjects prescribed in rule 20 and in Conveyancing. The questions proposed shall be different from, and more searching than, those set for candidates qualifying to become proctors. Fifty per cent. of the maximum marks on each subject shall entitle the applicant to a pass in it. Upon the Council reporting the results of the examination, the Supreme Court shall either direct the applicant to be sworn, admitted, and enrolled a proctor of the Supreme Court, or make such other order as the circumstances of the case may require.

30. A solicitor, attorney, writer to the signet, or proctor in any of the superior Courts of Record in Great Britain or Ireland, or a procurator in any Court of Record in Scotland, may be admitted a proctor of the Supreme Court without undergoing the preliminary, intermediate, or final examinations herein prescribed. Provided that he apply to the Supreme Court for admission as proctor of the Supreme Court, and fulfil the requirements prescribed by rule 25, and produce documentary proof of his previous admission as a solicitor, attorney, writer to the signet, proctor, or procurator, together with an affidavit that he is the person named in the said document, that he has not done or committed any act or thing which would cause his name to be struck off the roll of the court in which he has been admitted, and that to the best of his knowledge and belief his name still remains on the said roll. In which case, if the Registrar reports that the applicant is of good repute, and that there exists no impediment or objection to his admission, the Supreme Court shall direct the applicant to be sworn, admitted, and enrolled a proctor of the Supreme Court.

31. All persons who, having heretofore entered into articles as provided in the Rules and Orders of the Supreme Court, dated December 30, 1841, have completed or shall hereafter complete their respective terms of service, shall be eligible to enter for the final examination provided in rule 20. Upon payment to the secretary of a fee of fifty rupees one month at least before such examination, and the production of a certificate from the advocate or proctor to whom the candidate had bound himself certifying that he had well and truly served the said advocate or proctor as clerk during the term of his articles, he shall be examined at the final examination, and if deserving to be passed shall be awarded a certificate in the form C. Thereafter his admission as proctor shall be regulated by rules 25, 26, and 27, save that he shall not be required to serve a proctor of the Supreme Court as clerk after passing the final examination, or to produce a certificate to that effect, or the certificates A and B as provided in rule 26 In the event of such candidate failing to satisfy the Council, and desiring to enter for any ensuing final examination, the provisions of rule 24 shall apply to him.

QUALIFICATION AND ADMISSION OF ADVOCATES.

32. After the passing of this Ordinance, except as is hereinafter provided, no person shall be admitted to qualify himself as an advocate of the Supreme Court unless he shall have (1) completed his

seventeenth year; (2) produced a satisfactory certificate of good character; and (3) passed a preliminary examination in the subjects hereinafter prescribed; but candidates who have passed the Intermediate Examination in Arts of the London University, or the B. A. Examination of some university in the United Kingdom or a British Colony or India, shall be exempted from such preliminary examination.

Preliminary Examination.

33. No candidate shall be admitted to the preliminary examination unless he has previously paid to the secretary of the Council a fee of fifty rupees. If after payment of the fee the candidate withdraws his name, or fails to present himself at the examination, or to pass it, the fee shall not be returned to him, but he shall be allowed to enter for any subsequent preliminary examination upon payment at every such entry of an additional fee of twenty-five rupees, provided that he gives notice to the said secretary of his desire to enter at least one calendar month before the commencement of the examination.

34. The Council shall hold two preliminary examinations every year in the months of February and August, on such days in those months respectively as the Council may appoint and duly notify at least one month before such examination.

35. The preliminary examination shall be conducted principally by means of papers in the following subjects:

English Language and Literature.

English History, including Constitutional History.

The Latin Language:

Cicero de *officiis*, and two subjects, one in prose and the other in verse, to be selected by the candidate (and notified to the secretary not less than one month previous to the examination) from the works of the following authors:

Cicero—one of the orations.
Livy—one book.
Tacitus—one book of the Annals or of the Histories.
Virgil—four books of the Æneid or the Georgics.
Horace—the Odes.
Juvenal—two satires.

Logic (Deductive and Inductive):

Prof. Stanley Jevons' Lessons in Logic.

Candidates shall not be passed unless they have shown a competent knowledge in each of the subjects of examination, and have obtained in the aggregate 50 per cent. of the maximum marks.

36. The examiners shall report to the Council upon the proficiency and fitness of the several candidates examined at the preliminary examination, and the Council shall thereafter resolve that a certificate in the form D, signed by the secretary, shall be delivered to such candidate as the Council shall deem worthy of entering upon the study of the law.

37. The candidate so passed shall be registered a student-at-law, and be entitled to attend the various lectures which may be given by the lecturers on payment to the secretary of a fee of four hundred rupees, and upon entering into a bond with two good sureties to pay to the said officer a further fee of four hundred rupees eighteen months after the admission of such candidate as student.

Intermediate Examination.

38. Two intermediate examinations shall be held every year in the months of February and August, on such days in those months respectively as the Council may appoint and duly notify at least one month before such examination.

39. No student shall be admitted to such examination until eighteen months shall have elapsed after his admission as student, and unless he produce certificates from the law lecturers appointed in that behalf by the Council that he has attended a course of lectures on Jurisprudence, the Law of Persons, and the Law of Property, and is fit to undergo a public examination in those subjects.

40. The intermediate examination shall be conducted mainly by means of papers in the following subjects, namely :

Jurisprudence :

Austin's Jurisprudence, vol. I., lectures 1 to 6.

Holland's Jurisprudence.

Maine's Ancient Law.

Law of Persons and Property :

Sandars' Justinian. (Introduction, and lib. I., tit. 1–3 ; lib. II., tit. 1–7 ; lib. III., tit. 13–29 ; lib. IV., tit. 1–5).

Blackstone's Commentaries on the Laws of England, vols. I. and II., edited by Broom and Hadley or Kerr.

Vanderlinden's Institutes, Henry's edition, pp. 57–186.

Local Ordinances.

International Law.

There shall be at least two papers of questions on the Law of Persons and Property, and one on each of the other subjects. Candidates failing to obtain in the aggregate 50 per cent. of the maximum marks shall not be entitled to a pass.

41. The examiners shall report to the Council upon the marks earned by, and the proficiency and fitness of, the several candidates examined at the intermediate examination, and the Council shall thereafter resolve that certificates in the form E, signed by the secretary, shall be delivered to such candidates as the Council may deem to have passed a satisfactory examination.

42. In the event of the candidate failing to satisfy the Council, and desiring to enter for any ensuing intermediate examination, he shall pay a fee of fifty rupees to the secretary at least one month before such examination, and a similar fee of fifty rupees for every other intermediate examination for which he may enter.

43. If a candidate who has passed the intermediate examination shall not have paid at its due date the fee of four hundred rupees referred to in the 37th section, the name of such candidate shall be removed from the register of students, and he shall forfeit his right to attend the lectures of the lecturers, or to present himself for any other examination herein appointed. Provided, however, that the Council may, if special circumstances exist, order otherwise and put the said candidate upon such terms as to the Council may seem fit.

Final Examination.

44. Two final examinations shall be held every year in the months of February and August, on such days in those months respectively as the Council may appoint and duly notify at least one month before such examination.

45. No student shall be admitted to such examination until eighteen months shall have elapsed after his passing the intermediate examination, and unless he produces a certificate under the hand of the secretary that he has paid all fees due to the Council and certificates from the law lecturers appointed in that behalf by the Council that he has attended a course of lectures on the Law of Obligations, the Law of Evidence and Pleading, Administration and Bankruptcy, and International Law, and is fit to undergo a public examination in those subjects.

46. The final examination shall be conducted mainly by means of papers in the following subjects :

Law of Persons and Property :
- Vanderlinden's Institutes, Henry's edition, pp. 55–186.
- Hunter's Roman Law, pp. 85–276 (Rights *in rem* in respect to things).
- Story on Equity, sections 75–589.
- Chalmer's Digest of the Law of Bills of Exchange, Notes, and Cheques.
- Local Ordinances.

Law of Obligations :
- Hunter's Roman Law, pp. 279–556 (Rights *in personam*).
- Vanderlinden's Institutes, Henry's edition, pp. 187–277.
- Pothier on Obligations, translated by Evans, I., pp. 1–448.
- Pollock's Principles of Contracts.
- Pollock's Law of Torts.
- Local Ordinances.

Law of Evidence :
- Taylor on Evidence, Stephen's Digest.

Civil Procedure, including Pleadings.
Criminal Law and Procedure.
Bankruptcy and Administration.

There shall be at least one paper on each of the following subjects :

The Law of Persons, the Law of Evidence, Pleadings and Civil Procedure, Criminal Law and Procedure, and Bankruptcy and Administration ;

and two papers at least on each of the following subjects :

The Law of Property and the Law of Obligations.

Candidates failing to obtain in the aggregate 50 per cent. of the maximum marks shall not be entitled to a pass.

47. The examiners shall report to the Council upon the marks earned by, and the proficiency and fitness of, the several candidates examined at the final examination, and the Council shall thereafter resolve that a certificate in the form F, signed by the secretary, shall be delivered to such candidates as the Council may deem to have passed a satisfactory examination.

48. In the event of a candidate failing to satisfy the Council, and desiring to enter for any ensuing final examination, he shall pay a fee of fifty rupees to the secretary at least one month before such examination, and a similar fee of fifty rupees for every other final examination for which he may enter.

49. Upon passing the final examination the student shall attend for six months the chambers of an advocate practising in Colombo and familiarize himself with the ordinary business of an advocate in chambers. He shall also during the said period attend the district court of Colombo and the Supreme Court, and shall report at least two cases every week in accordance with the instructions given in the schedule hereto annexed, and submit them to the revision of the lecturer on the Law of Evidence and Pleading.

50. Upon the student fulfilling the requirements of the next preceding section mentioned, he may be admitted an advocate of the Supreme Court.

51. All persons who, having been admitted as students-at-law under the rules and orders given effect to by Ordinance No. 19 of 1873, have conformed themselves to the provisions therein prescribed, may enter for the final examination provided herein in rule 46. Upon payment to the secretary of a fee of fifty rupees one month at least before such examination, he shall be examined, and if deserving to be passed as herein provided, shall be awarded a certificate in the form F. When he shall have fulfilled the requirements of section 49 his admission as advocate shall be regulated as hereinafter provided.

52. A proctor of the Supreme Court who has practised the profession for not less than five years may be enrolled an advocate of the Supreme Court upon payment of a fee of one hundred rupees to the secretary, and upon passing the final examination provided in the 46th rule.

Admission as Advocate.

53. Every person who shall intend to apply for admission as an advocate of the Supreme Court shall, six weeks at least before he shall so apply, give notice of such his intention to the Registrar of the Supreme Court, and shall cause his name and place of abode written in legible characters to be posted up at the registry of the Supreme Court, and also on one of the outside doors of the court-house, and shall also cause the notice of his intended application to be published once at least in the *Ceylon Government Gazette* and in some English newspaper published in Colombo.

54. Every such application shall be in the form of a petition to the Supreme Court, to which shall be annexed :

(1) The certificates D, E, and F referred to in rules 36, 41, and 51 ;

(2) An affidavit that he is the identical person mentioned in the said certificates and has attained the age of 21 years ;

(3) A certificate from the lecturer on the Law of Evidence and Pleading that the reports of cases prepared by the student have not fallen below a reasonable standard in the choice of subject-matter or in the manner of treating it ; and

(4) A certificate from the advocate whose chambers the student has attended, that the said student had regularly so attended and practically understands the details of the chamber practice of an advocate.

55. The Supreme Court shall thereupon direct the Registrar to inquire and report whether the applicant is of good repute, and whether there exists any impediment or objection to the enrolment of such applicant as advocate. Upon a report being made, the Supreme Court shall either direct the applicant to be sworn, admitted, and enrolled an advocate, or make such other order as the circumstances of the case may require.

56. Any person who has been duly called to the bar in England, Scotland, or Ireland may be admitted and enrolled an advocate of the Supreme Court without undergoing any of the examinations herein prescribed. Provided that he apply to the Supreme Court for admission as advocate and fulfil the requirements prescribed by rule 53, and produce documentary proof of his previous call to the bar, together with an affidavit that he is the person named in the said documents, and that he has not done or committed any act or thing which would cause him to be disbarred. In which case, if the Registrar reports that

the applicant is of good repute, and that there exists no impediment or objection to his admission and enrolment, the Supreme Court shall direct the applicant to be sworn, admitted, and enrolled an advocate of the Supreme Court, or make such other order as the circumstances of the case may require.

GENERAL.

57. All cases of misconduct or irregularity on the part of students shall be dealt with and disposed of by the Council as to the Council may seem meet.

58. In case the Council are not prepared to accept the opinion of the examiners in regard to the proficiency or fitness of a candidate at any of the examinations herein provided, the Council shall deal with such case as to the Council may seem proper ; but the resolution which the Council may arrive at in regard thereto, and the reasons therefor, shall be fully recorded in the minutes of the proceedings of the Council, and a copy of the same shall be given to the candidate affected by it should he apply for the same.

59. All persons of good repute may attend the law lectures herein prescribed on payment to the secretary of seventy-five rupees for each course of lectures.

60. Any person who during the period in which he is qualifying for admission as advocate or proctor shall be engaged in any other occupation but the study of the law or the business proper to an advocate or proctor shall not be admitted as advocate or proctor.

61. It shall be lawful for the members for the time being of the Council of Legal Education, or of the major part of them, by resolution to be published in the *Government Gazette* at least six months before any examination affected by such resolution shall be held, to dispense with any one or more of the subjects prescribed in rules 8, 13, 20, 35, 40, and 46, and to substitute other subjects in lieu thereof.

FORMS OF CERTIFICATES.

A.—Preliminary Examination.

By authority of the Council of Legal Education, I do hereby certify that ———, of ———, has passed the Preliminary Examination appointed under the rules provided (under section 18 of Ordinance No. 1 of 1889) for the examination of candidates seeking to be enrolled a Proctor of one of the district courts of the Island of Ceylon.

Dated this ——— day of ———, 18 —. ———
Secretary.

B.—Intermediate Examination.

By authority of the Council of Legal Education, I do hereby certify that ———, of ———, has passed the Intermediate Examination appointed under the rules provided (under section 18 of Ordinance No. 1 of 1889) for the examination of candidates seeking to be enrolled a Proctor of one of the district courts of the Island of Ceylon.

Dated this ——— day of ———, 18 —. ———
Secretary.

C.—Final Examination.

By authority of the Council of Legal Education, I do hereby certify that———, of———, has passed the Final Examination appointed under the rules provided (under section 18 of Ordinance No. 1 of 1889) for the examination of candidates seeking to be enrolled a Proctor of one of the district courts of the Island of Ceylon.

Dated this ——— day of ———, 18 —. Secretary.

D.—Preliminary Examination.

By authority of the Council of Legal Education, I do hereby certify that ———, of ———, has passed the Preliminary Examination appointed under the rules provided (under section 18 of Ordinance No. 1 of 1889) for the examination of candidates seeking to be admitted an Advocate of the Supreme Court of the Island of Ceylon.

Dated this ——— day of ———, 18 —. Secretary.

E.—Intermediate Examination.

By authority of the Council of Legal Education, I do hereby certify that ———, of ———, has passed the Intermediate Examination appointed under the rules provided (under section 18 of Ordinance No. 1 of 1889) for the examination of candidates seeking to be admitted an Advocate of the Supreme Court of the Island of Ceylon.

Dated this ——— day of ———, 18 —. Secretary.

F.—Final Examination.

By authority of the Council of Legal Education, I do hereby certify that ———, of ———, has passed the Final Examination appointed under the rules provided (under section 18 of Ordinance No. 1 of 1889) for the examination of candidates seeking to be admitted an Advocate of the Supreme Court of the Island of Ceylon

Dated this ——— day of ———, 18 —. Secretary.

Instructions referred to in Rule 49.

The following points are to be attended to in the preparation, &c., of the reports :—

(*a*) Each report should contain the title of the court, the names of the judge and the parties, the time and place of trial, and the matter of the charge, cause of action, &c. The reports should state, fully and methodically, the substance of the evidence given (reporting it in the first person, and marking whether it was elicited in chief, cross, or re-examination), the objections made to evidence, whether oral or documentary,

the points, if any, on which conflict of evidence has arisen, the arguments of counsel, the view taken by the judge, and the ultimate result; besides noting the course of procedure and any other details which may appear worthy of observation.

(*b*) The candidate is to underline, in the body of his report, such portions of the evidence as appear to him specially cogent and material, and to state in the margin opposite, in the shortest possible note, the reason why.

(*c*) In addition to the more extended report, a very short analytical statement of each case is to be given, showing, in criminal cases, the facts necessary to constit te the offence charged, and in civil cases the exact points in issue, with the bearing of the evidence upon them. In working out this summary, clearness and precision should be steadily kept in view.

(*d*) Each candidate shall append to his reports a declaration that they have been obtained by his personal attendance in court and are *bonâ fide* his own composition, without revision or help given by another person or derived from another report.

(*e*) Foolscap paper is to be used (on one side only), with a margin; and attention must be paid to handwriting, which should be clear and large.

(*f*) The reports shall include civil and criminal cases (original and in appeal) in the proportion of four to one.

SCHEDULE IV.

Justices of the Peace for the Island.

The Judges of the Supreme Court.
The Members of the Executive Council.
The Members of the Legislative Council.
The Government Agents of the different Provinces.
The Solicitor-General.
The Inspector-General of Police.
Clerk of the Executive Council.
Clerk of the Legislative Council.

Justices of the Peace for portions of the Island.

The District Judges The Commissioners of the Courts of Requests The Police Magistrates	For the different districts and divisions over which the courts of which they are respectively judges, commissioners, or magistrates have jurisdiction.

The Assistant Government Agents for their respective revenue districts.

The Crown Counsel for their respective circuits, provinces, or districts.

The Provincial Superintendents of Police for their respective provinces.

19th February, 1889.

No. 2 of 1889.

An Ordinance to consolidate and amend the Laws relating to the Procedure of the Civil Courts.

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No. 2 of 1889.

An Ordinance to consolidate and amend the Laws relating to the Procedure of the Civil Courts.

WHEREAS it is expedient to consolidate and amend the Laws relating to the procedure of the Civil Courts in this colony: Be it therefore enacted by the Governor of Ceylon, by and with the advice and consent of the Legislative Council thereof, as follows: **Preamble.**

CHAPTER I.

Preliminary.

1 This Ordinance may be cited for all purposes as the "Civil Procedure Code, 1889," and shall come into operation at such date as the Governor shall, by Proclamation* to be published in the *Government Gazette*, appoint. **Short title. Date of operation.**

2 On and from the date on which this Ordinance comes into operation, the Laws, Ordinances, sections of Ordinances, and Rules of Court, respectively mentioned in the first column of the first schedule hereto, shall be severally repealed to the extent mentioned in the third column thereof, but such repeal shall not affect— **Repeal.**

(1) The past operation of any enactment hereby repealed, nor anything duly done or suffered under any enactment hereby repealed; nor **Saving clause.**

(2) Any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed;

nor shall such repeal revive any enactment, right, office, privilege, matter, or thing not in force or existing at the commencement of this Ordinance. Where any unrepealed Ordinance incorporates or refers to any provision of any Ordinance hereby repealed, such unrepealed Ordinance shall be deemed to incorporate or refer to the corresponding provision of this Ordinance.

3 Every action, suit, or other matter already instituted and pending in any court at the time of the coming into operation of this Ordinance shall, so far as circumstances permit, be continued and proceeded with to final judgment and execution under the provisions of this Ordinance, in the same manner in every respect as if the same had been originally instituted after the commencement of this Ordinance; and such court may make all such special orders in any such action, suit, or matter as may be necessary for that purpose. **Actions already pending to be continued under the provisions of this Ordinance.**

Provided always that any such court may, on reasonable cause being shown, direct that any such action, suit, or matter commenced before the coming into operation of this Ordinance shall be continued as if this Ordinance had not passed, up to execution, or to final judgment, or to any stage of such action, suit, or matter which the court may direct. **Except where court sees fit to direct otherwise.**

* Proclaimed the 1st day of August, 1890

Where no provision is made special directions to be given by Supreme Court.

4 In every case in which no provision is made by this Ordinance, the procedure and practice hitherto in force shall be followed, and if any matter of procedure or practice for which no provision is made by this Ordinance or by any law for the time being in force shall after this Ordinance comes into operation arise before any court, such court shall thereupon make application to the Supreme Court for, and the Supreme Court shall and is hereby required to give, such special orders and directions thereupon as the justice of the case shall require.

Proviso.

Provided always that nothing in this Ordinance contained shall be held in any way to affect or modify any special rules of procedure which, under or by virtue of the provisions of any Imperial Statute or of any Ordinance now in force, may have from time to time been laid down or prescribed to be followed by any civil court in this colony in the conduct of any action, matter, or thing of which any such court can lawfully take cognizance, except in so far as any such provisions are by this Ordinance expressly repealed or modified.

Interpretation clause.

5 The following words and expressions in this Ordinance shall have the meanings hereby assigned to them, unless there is something in the subject or context repugnant thereto :

"Her Majesty" or "the Queen" means the sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"The island," "this island," and "this colony" mean respectively the island of Ceylon and its dependencies.

"The Governor" includes the person for the time being administering the Government of Ceylon.

"The Government" means the person or persons authorized by law to administer Executive Government in Ceylon.

"Attorney-General" includes also the Solicitor-General and any Crown counsel specially authorized by the Attorney-General to represent the Attorney-General.

"Public officer" includes all officers or servants employed in this colony by or under the Imperial Government or the Government of Ceylon.

"Recognized agent" includes the persons designated under that name in section 25 and no others.

"Action" is a proceeding for the prevention or redress of a wrong.

"Cause of action" is the wrong for the prevention or redress of which an action may be brought, and includes the denial of a right, the refusal to fulfil an obligation, the neglect to perform a duty, and the infliction of an affirmative injury.

"Court" means a judge empowered by law to act judicially alone, or a body of judges empowered by law to act judicially as a body, when such judge or body of judges is acting judicially.

"Civil court" means a court in which civil actions may be brought.

"Original court" includes district courts and courts of requests.

"Judge" means the presiding officer of a court, and includes judges of the Supreme Court, district judges, and commissioners of requests.

"Decree" means the formal expression of an adjudication upon any right claimed or defence set up in a civil court, when such adjudication, so far as regards the court expressing it, decides the action or appeal.

[An order rejecting a plaint is a decree within this definition.]

"Order" means the formal expression of any decision of a civil court which is not a decree.

"Judgment" means the statement given by the judge of the grounds of a decree or order.

"Judgment-debtor" means any person against whom a decree or order capable of execution has been made.

"Judgment-creditor" and "decree-holder" mean any person in whose favour a decree or order capable of execution has been made, and include any transferree of such decree or order.

"Written" and "writing" include "printed" and "print" and "lithographed" and "lithograph" respectively.

"Signed" includes "marked" when the person making the mark is unable to write.

"Foreign court" means a court situate beyond the limits of, and not having authority in, Ceylon.

"Foreign judgment" means the judgment of a foreign court.

PART I.

OF ACTIONS IN GENERAL.

CHAPTER II.

General Provisions.

Definition: Action.

6 Every application to a court for relief or remedy obtainable through the exercise of the court's power or authority, or otherwise to invite its interference, constitutes an action.

Procedure: to be regular or summary.

7 The procedure of an action may be either *regular* or *summary*.

Illustration.

In actions of which the procedure is regular, the person against whom the application is made is called upon to formally state his answer to the case which is alleged against him in the application before any question of fact is entertained by the court, or its discretion thereon is in any degree exercised.

In actions of which the procedure is summary, the applicant simultaneously with preferring his application supports with proper evidence the statement of fact made therein ; and if the court in its discretion considers that a *primâ facie* case is thus made out—

(*a*) Either the order sought is immediately passed against the defendant before he has been afforded an opportunity of opposing it, but subject to the expressed qualification that it will only take effect in the event of his not showing any good cause against it on a day appointed therein for the purpose ;

(*b*) Or a day is appointed by the court for entertaining the matter of the application on the evidence furnished, and notice is given to the defendant that he will be heard in opposition to it on that day if he thinks proper to come before the court for that purpose.

Procedure of action to be ordinarily regular.

8 Save and except actions in which it is by this Ordinance specially provided that proceedings may be taken by way of summary procedure, every action shall commence and proceed by a course of regular procedure, as hereinafter prescribed.

CHAPTER III.

Of the Court of Institution of Action.

Institution of actions :

In what court.

9 Subject to the pecuniary or other limitations prescribed by any law, actions shall be instituted in the court within the local limits of whose jurisdiction—

(*a*) A party defendant resides ; or

(*b*) The land in respect of which the action is brought lies or is situate in whole or in part ; or

(*c*) The cause of action arises ; or

(*d*) The contract sought to be enforced was made.

When one of two or more courts may entertain an action.

When it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more courts any immovable property is situate, any one of those courts may, if satisfied that there is ground for the alleged uncertainty, record a statement to that effect, and thereupon proceed to entertain and dispose of any action relating to that property ; and its decree in the action shall have the same effect as if the property were situate within the local limits of its jurisdiction. Provided that the action is one with respect to which the court is competent as regards the nature and value of the action to exercise jurisdiction.

Of applications for withdrawal and transfer of actions.

10 Any of the parties to an action which is pending in any original court may, before trial, and after notice in writing to the other parties of his intention so to do, apply to the Supreme Court in manner in section 46 of "The Courts Ordinance, 1889," prescribed, for the withdrawal of such action from the court in which it is pending, and for the transfer of it for trial, to any other court competent to try the same in respect of its nature and the amount or value of its subject-matter. And the Supreme Court may, on any such application, after hearing such of the parties as desire to be heard, and on being satisfied that such withdrawal and transfer are

desirable for any of the reasons given in that section, withdraw any such action pending in any such court, and transfer it for trial to any other such court as aforesaid, upon any terms that the said Supreme Court shall think fit. When the action might have been instituted in any one of several courts, the balance of convenience only shall be deemed sufficient cause for such withdrawal and transfer to one of the alternative courts.

Stamp duty.

In no case in which any action is so transferred as aforesaid from one court to another shall any stamp fee be leviable in the court to which the action is transferred on any pleading or exhibit on which the proper stamp fee has been paid in the court from which the action is so transferred.

CHAPTER IV.

Of Parties and their Appearances, Applications, and Acts.

Plaintiffs.

11 All persons may be joined as plaintiffs in whom the right to any relief claimed is alleged to exist, whether jointly, severally, or in the alternative, in respect of the same cause of action. And judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief for such relief as he or they may be entitled to, without any amendment of the plaint for that purpose. But the defendant, though unsuccessful, shall be entitled to his costs occasioned by so joining any person who is not found entitled to relief, unless the court in disposing of the costs of the action otherwise directs.

Where joint tenants or tenants in common.

12 Where two or more persons are entitled to the possession of immovable property as joint tenants or tenants in common, one or more of them may maintain an action in respect of his or their undivided shares in the property in any case where such an action might be maintained by all.

Substituted and added plaintiffs.

13 Where an action has been instituted in the name of the wrong person as plaintiff, or where it is doubtful whether it has been instituted in the name of the right plaintiff, the court may at any stage of the action, if satisfied that the action has been so commenced through a *bonâ fide* mistake, and that it is necessary for the determination of the real matter in dispute so to do, order any other person or persons, with his or their consent, to be substituted or added as plaintiff or plaintiffs, upon such terms as the court thinks just.

Defendants.

14 All persons may be joined as defendants against whom the right to any relief is alleged to exist, whether jointly, severally, or in the alternative, in respect of the same cause of action. And judgment may be given against such one or more of the defendants as may be found to be liable, according to their respective liabilities, without any amendment.

Who may be joined as parties defendant.

15 The plaintiff may, at his option, join as parties to the same action all or any of the persons severally, or jointly and severally, liable on any one contract, including parties to bills of exchange and promissory notes.

Where several parties, one may sue or defend for all.

Notice.

16 Where there are numerous parties having a common interest in bringing or defending an action, one or more of such parties may, with the permission of the court, sue or be sued, or may defend in such an action on behalf of all parties so interested. But the court shall in such case give, at the expense of the party applying so to sue or defend, notice of the institution of the action to all such parties, either by personal service or (if from the number of parties or any other cause such service is not reasonably practicable, then) by public advertisement, as the court in each case may direct.

Misjoinder not to defeat action.

17 No action shall be defeated by reason of the misjoinder or nonjoinder of parties, and the court may in every action deal with the matter in controversy so far as regards the rights and interests of the parties actually before it.

Nothing in this Ordinance shall be deemed to enable plaintiffs to join in respect of distinct causes of action.

If the consent of any one who ought to be joined as a plaintiff cannot be obtained, he may be made a defendant, the reasons therefor being stated in the plaint.

Parties (improperly joined) may be struck out, or added.

18 The court may on or before the hearing, upon the application of either party, and on such terms as the court thinks just, order that the name of any party, whether as plaintiff or as defendant improperly joined, be struck out; and the court may at any time, either upon or without such application, and on such terms as the court thinks just, order that any plaintiff be made a defendant, or that any defendant be made a plaintiff, and that the name of any person who ought to have been joined, whether as plaintiff or defendant, or whose presence before the court may be necessary in order to enable the court effectually and completely to adjudicate upon and settle all the questions involved in the action, be added.

Every order for such amendment or for alteration of parties shall state the facts and reasons which together form the ground on which the order is made. And in the case of a party being added, the added party or parties shall be named, with the designation "added party," in all pleadings or processes or papers entitled in the action, and made after the date of the order.

Intervention not otherwise allowed.

19 No person shall be allowed to intervene in a pending action, otherwise than in pursuance of, and in conformity with, the provisions of the last preceding section. And no person shall be added as plaintiff, or as the next friend of a plaintiff, without his own consent thereto.

Except in cases under section 16.

Provided however that any person on whose behalf an action is instituted or defended under section 16, may apply to the court to be made a party, and all parties whose names are so added as defendants shall be served with a summons in manner hereinafter mentioned, and the proceedings as against them shall be deemed to have begun only on the service of such summons.

20 The court may give the conduct of the action to such plaintiff as it deems proper.

Conduct of the action.

21 Where a defendant is added, the plaint shall, unless the court direct otherwise, be amended in such manner as may be necessary, and a copy of the amended plaint shall be served on the new defendant and on the original defendants.

Amendment of plaint.

22 All objections for want of parties or for joinder of parties who have no interest in the action, or for misjoinder as co-plaintiffs or co-defendants, shall be taken at the earliest possible opportunity, and in all cases before the hearing. And any such objection not so taken shall be deemed to have been waived by the defendant.

Objections for non-joinder or misjoinder to be taken before hearing.

23 When there are more plaintiffs than one, any one or more of them may be authorized by any other of them to appear, plead, or act for such other in any proceeding under this Ordinance, and in like manner, when there are more defendants than one, any one or more of them may be authorized by any other of them to appear, plead, or act for such other in any such proceeding. The authority shall be in writing, signed by the party giving it, and shall be filed in court.

Plaintiffs (or defendants) may authorize one of them to act for them.

CHAPTER V.

Of Recognized Agents and Proctors.

24 Any appearance, application, or act in or to any court, required or authorized by law to be made or done by a party to an action or appeal in such court, except only such appearances, applications, or acts as by any law for the time being in force only advocates or proctors are authorized to make or do, and except when by any such law otherwise expressly provided, may be made or done by the party in person, or by his recognized agent, or by a proctor duly appointed by the party or such agent to act on behalf of such party : Provided that any such appearance shall be made by the party in person, if the court so directs. An advocate, instructed by a proctor for this purpose, represents the proctor in court.

Appearances may be by party in person, his recognized agent or proctor.

25 The recognized agents of parties by whom such appearances and applications may be made or acts may be done are—

Recognized agents.

(*a*) The Attorney-General, on behalf of the Crown in respect to any court ; who is also authorized to depute his power of appointing a proctor on behalf of the Crown in respect to any court to any person by a written document to be signed by the Attorney-General, and to be filed in that court.

(*b*) Persons holding general powers of attorney from parties not resident within the local limits of the jurisdiction of the court within which limits the appearance or application is made, or act done,

authorizing them to make such appearances and applications, and do such acts on behalf of such parties; which power, or a copy thereof certified by a proctor or notary, shall in each case be filed in the court.

(*c*) Persons carrying on trade or business for and in the names of parties not resident within the local limits of the jurisdiction of the court within which limits the appearance or application is made or act done, in matters connected with such trade or business only, where no other agent is expressly authorized to make such appearances and applications and do such acts.

(*d*) In courts of requests, any person appointed in writing in that behalf by the Attorney-General or by any Crown counsel empowered to act within the province or district in which the court is situate, or by the government agent or assistant government agent or collector of customs of such province or district to represent the Crown as a party plaintiff.

(*e*) In courts of requests, any person specially allowed by the commissioner on sufficient cause to represent any party.

Processes served on agent, effectual.

26 Processes served on the recognized agent of a party to an action or appeal shall be as effectual as if the same had been served on the party in person, unless the court otherwise directs.

The provisions of this Ordinance for the service of process on a party to an action shall apply to the service of process on his recognized agent.

Appointment of proctor.

27 The appointment of a proctor to make any appearance or application, or do any act as aforesaid, shall be in writing signed by the client, and shall be filed in court: and every such appointment shall contain an address at which service of any process which under the provisions of this chapter may be served on a proctor instead of the party whom he represents, may be made.

When so filed, it shall be in force until revoked with the leave of the court and after notice to the proctor by a writing signed by the client and filed in court, or until the client dies, or until the proctor dies, is removed, or suspended, or otherwise becomes incapable to act, or until all proceedings in the action are ended and judgment satisfied so far as regards the client.

No advocate of the Supreme Court shall be required to present any document empowering him to act. The Attorney-General may appoint a proctor to act specially in any particular case or to act generally on behalf of the Crown.

Death or incapacity of proctor.

28 If any such proctor as in the last preceding section is mentioned shall die, or be removed or suspended, or otherwise become incapable to act as aforesaid, at any time before judgment, no further proceeding shall be taken in the action

against the party for whom he appeared until thirty days after notice to appoint another proctor has been given to that party either personally or in such other manner as the court directs.

Service on proctor.

29 Any process served on the proctor of any party or left at the office or ordinary residence of such proctor, relative to an action or appeal, except where the same is for the personal appearance of the party, shall be presumed to be duly communicated and made known to the party whom the proctor represents; and, unless the court otherwise directs, shall be as effectual for all purposes in relation to the action or appeal as if the same had been given to, or served on, the party in person.

Agent to accept service.

30 Besides the recognized agents described in section 25, any person residing within the jurisdiction of the court may be appointed an agent to accept service of process. Such appointment may be special or general, and shall be made by an instrument in writing signed by the principal, which shall contain an address at which such service may be made, and which, or, if the appointment be general, a duly attested copy thereof, shall be filed in court.

Warrant or power of attorney to confess judgment, requisites of.

31 A warrant or power of attorney to confess judgment in any action may be given by any person to a proctor in the form No. 12 in the second schedule hereto, but no such warrant or power of attorney shall be of any force unless there is present at the execution thereof some proctor of the Supreme or district court on behalf of such person expressly named by him, and attending at his request to inform him of the nature and effect of such warrant or power before the same is executed, which proctor shall subscribe his name as a witness to the due execution thereof, and thereby declare himself to be proctor for the person executing the same, and state that he subscribes as such proctor. Every such proctor so subscribing shall state in such declaration that he read and explained the contents of such warrant or power to the person executing the same, and that such person appeared to understand the nature and effect thereof; and no such warrant or power not executed in manner aforesaid shall be rendered valid by proof that the person who executed the same did in fact understand the nature and effect thereof, or was fully informed of the same.

To be filed.

32 Every such warrant or power to confess judgment, or a true copy thereof, shall be filed with the secretary of the district court having jurisdiction in the action within twenty-one days after the execution thereof. Every such warrant or power which, or a copy of which as aforesaid, shall not be so filed, shall be deemed fraudulent, and shall be void: and if any such warrant or power so filed was given subject to any defeasance or condition, such defeasance or condition shall be written on the same paper with the warrant or power before the filing thereof, otherwise the warrant or power shall be void.

CHAPTER VI.

Of the Scope and Subject of Action.

Action, how to be framed.

33 Every regular action shall, as far as practicable, be so framed as to afford ground for a final decision upon the subjects in dispute, and so to prevent further litigation concerning them.

To include whole claim.

34 Every action shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action: but a plaintiff may relinquish any portion of his claim in order to bring the action within the jurisdiction of any court.

If a plaintiff omits to sue in respect of, or intentionally relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished. A person entitled to more than one remedy in respect of the same cause of action may sue for all or any of his remedies: but if he omits (except with the leave of the court obtained before the hearing) to sue for any of such remedies, he shall not afterwards sue for the remedy so omitted.

For the purpose of this section, an obligation and a collateral security for its performance shall be deemed to constitute but one cause of action.

Illustration.

A lets a house to B at a yearly rent of Rs. 1,000. The rent for the whole of the two years 1886 and 1887 is due and unpaid. A sues B only for the rent due for one of those years. A shall not afterwards sue B for the rent due for the other year.

Joinder of claims in actions for immovable property.

35 (1) In an action for the recovery of immovable property, or to obtain a declaration of title to immovable property, no other claim, or any cause of action, shall be made unless with the leave of the court, except—

(*a*) Claims in respect of mesne profits or arrears of rent in respect of the property claimed;

(*b*) Damages for breach of any contract under which the property or any part thereof is held; or consequential on the trespass which constitutes the cause of action; and

(*c*) Claims by a mortgagee to enforce any of his remedies under the mortgage.

Example.—A sues B to recover land upon the allegation that the land belongs to C, and that he (A) has bought it of C. A makes C a party defendant; but he cannot, without leave of the court, join with this claim an alternative claim for damages against C for non-performance of his contract of sale.

In actions against executors, &c.

(2) No claim by or against an executor, administrator, or heir as such, shall in any action be joined with claims by or against him personally unless the last-mentioned claims are alleged to arise with reference to the estate in respect of which the plaintiff or defendant sues or is sued as executor, administrator, or heir, or are such as he was entitled to or liable for jointly with the deceased person whom he represents.

In other cases.

36 Subject to the rules contained in the last section, the plaintiff may unite in the same action several causes of action against the same defendant or the same defendants jointly, and any plaintiffs having causes of action in which they are jointly interested against the same defendant or defendants may unite such causes of action in the same action.

Exception. court may order separation

But if it appears to the court that any such causes of action cannot be conveniently tried or disposed of together, the court may, at any time before the hearing, of its own motion or on the application of any defendant, in both cases either in the presence of, or upon notice to, the plaintiff, or at any subsequent stage of the action if the parties agree, order separate trials of any such causes of action to be had, or make such other order as may be necessary or expedient for the separate disposal thereof.

When causes of action are united, the jurisdiction of the court as regards the action shall depend on the amount or value of the aggregate subject-matters at the date of instituting the action, whether or not an order has been made under the second paragraph of this section.

Application by defendant in such cases.

37 Any defendant alleging that the plaintiff has united in the same action several causes of action which cannot be conveniently disposed of in one action, may at any time before the hearing apply to the court for an order confining the action to such of the causes of action as may be conveniently disposed of in one action.

Order of court thereon.

38 If, on the hearing of such application, it appears to the court that the causes of action are such as cannot all be conveniently disposed of in one action, the court may order any of such causes of action to be excluded, and may direct the plaint to be amended accordingly, and may make such order as to costs as may be just.

Every amendment made under this section shall be attested by the signature of the judge.

CHAPTER VII.

Of the Mode of Institution of Action.

Action to commence by plaint.

39 Every action of regular procedure shall be instituted by presenting a duly stamped written plaint to the court or to such officer as the court shall appoint in this behalf; or, in the court of requests, the plaintiff may personally state his case *vivâ voce* in open court to the commissioner, who shall reduce the same into writing upon a stamp being supplied by the plaintiff, such as would be required for a written plaint in respect of the same cause of action, and the said stamp shall be affixed to the writing so made of the said statement, and the statement so taken down in writing and stamped shall in such case be the plaint.

Requisites of plaints.

40 The plaint shall be distinctly written in the English language upon good and suitable paper, and shall contain the following particulars :

(*a*) The name of the court and date of filing the plaint ;

(*b*) The name, description, and place of residence of the plaintiff ;

(*c*) The name, description, and place of residence of the defendant so far as the same can be ascertained ;

(*d*) A plain and concise statement of the circumstances constituting each cause of action, and where and when it arose. Such statement shall be set forth in duly numbered paragraphs ; and where two or more causes of action are set out, the statement of the circumstances constituting each cause of action must be separate, and numbered ;

(*e*) A demand of the relief which the plaintiff claims ; and

(*f*) If the plaintiff has allowed a set-off or relinquished a portion of his claim, the amount so allowed or relinquished.

If the plaintiff seeks the recovery of money, the plaint must state the precise amount, so far as the case admits. In an action for a specific chattel, or to establish, recover, or enforce any right, status, or privilege, or for mesne profits, or for the amount which will be found due to the plaintiff on taking unsettled accounts between him and the defendant, the plaint need only state approximately the value of the chattel, right, status, or privilege, or the amount sued for.

Land sued for to be described by metes and bounds or sketch.

41 When the claim made in the action is for some specific portion of land, or for some share or interest in a specific portion of land, then the portion of land must be described in the plaint so far as possible by reference to physical metes and bounds, or by reference to a sufficient sketch, map, or plan to be appended to the plaint, and not by name only.

Plaintiff suing in a representative character must show that the character has accrued to him.

42 When the plaintiff sues in a representative character, the plaint should show, not only that he has an actual existing interest in the subject-matter, but that he has taken the steps necessary to enable him to institute an action concerning it.

Illustrations.

(*a*) A sues as B's executor. The plaint must state that A has proved B's will.

(*b*) A sues as C's administrator. The plaint must state that A has taken out administration to C's estate.

Plaint must show defendant's interest and liability to be sued.

43 The plaint must show that the defendant is or claims to be interested in the subject-matter, and that he is liable to be called upon to answer the plaintiff's demand.

Exemption from bar from lapse of time to be shown.

44 If the cause of action arose beyond the period ordinarily allowed by any law for instituting the action, the plaint must show the ground upon which exemption from such law is claimed.

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45 Every plaint shall contain a statement of facts setting out the jurisdiction of the court to try and determine the claim in respect of which the action is brought.

Jurisdiction of court to be averred.

46 Every plaint presented by a proctor on behalf of a plaintiff shall be subscribed by such proctor. In every other case in which a plaint is presented, it shall be subscribed by the plaintiff; and his signature shall be verified by the signature of some officer authorized by the court in that behalf.

Subscription of plaint.

Before the plaint (whether presented by the plaintiff or by a proctor in his behalf) is allowed to be filed, the court may, if in its discretion it shall think fit, refuse to entertain the same for any of the following reasons, viz.:

Court may refuse to entertain plaint.

(*a*) If it does not state correctly, and without prolixity, the several particulars hereinbefore required to be specified therein;

(*b*) If it contains any particulars other than those so required;

(*c*) If it is not subscribed, or subscribed and verified, as the case may be, as hereinbefore required;

(*d*) If it does not disclose a cause of action;

(*e*) If it is not framed in accordance with section 33;

(*f*) If it is wrongly framed by reason of non-joinder or mis-joinder of parties, or because the plaintiff has joined causes of action which ought not to be joined in the same action;

and may return the same for amendment then and there, or within such time as may be fixed by the court, upon such terms as to the payment of costs occasioned by the amendment, as the court thinks fit. Provided that no amendment shall be allowed which would have the effect of converting an action of one character into an action of another and inconsistent character: And provided further, that in each of the following cases, viz.:

And may reject.

(*g*) Where the relief sought is under-valued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;

(*h*) Where the relief sought is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff on being required by the court to supply the requisite stamps within a time to be fixed by the court fails to do so;

(*i*) When the action appears from the statement in the plaint to be barred by any positive rule of law;

(*j*) When the plaint having been returned for amendment within a time fixed by the court is not amended within such time;

the plaint shall be rejected; but such rejection shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

Where plaint presented to wrong court.

47 In every case where an action has been instituted in a court not having jurisdiction by reason of the amount or value involved, or by reason of the conditions made necessary to the institution of an action in any particular court by section 9 not being present, the plaint shall be returned to be presented to the proper court.

Order on rejection

48 Every order returning or rejecting a plaint shall specify the date when the plaint was presented and so returned or rejected, the name of the person by whom it was presented, and whether such person was plaintiff or proctor, and the fault or defect constituting the ground of return or rejection; and every such order shall be in writing, signed by the judge, and filed of record.

Memorandum of documents to be endorsed on plaint.

49 The plaintiff shall endorse on the plaint, or annex thereto, a memorandum of the documents (if any) which he has produced along with it; and if the plaint is admitted, shall present as many copies on unstamped paper of the plaint as there are defendants, each, in the case of Sinhalese, Tamil, or Moor defendants, translated into the language of the defendant for whom it is destined: unless the court, by reason of the length of the plaint or the number of the defendants or for any other sufficient reason, permits him to present a like number of concise statements of the nature of the claim made, or of the relief or remedy required in the action, in which case he shall present such statements.

If the plaintiff sues or the defendant or any of the defendants is sued in a representative capacity, such statement shall show in what capacity such plaintiff or defendant sues or is sued: and the plaintiff may by leave of the court amend such statements so as to make them correspond with the plaint: such memorandum and copies or statements shall be examined by the secretary or clerk of the court, as the case may be, and signed by him if he finds them correct.

Plaintiff to produce with plaint document sued on.

50 If a plaintiff sues upon a document in his possession or power, he shall produce it in court when the plaint is presented, and shall at the same time deliver the document or a copy thereof to be filed with the plaint.

To annex list of other documents.

51 If he relies on any other documents (whether in his possession or power or not) as evidence in support of his claim, he shall enter such documents in a list to be added or annexed to the plaint.

And to state where document not in his possession is.

52 In the case of any such document not being in his possession or power, he shall, if possible, state in whose possession or power it is.

Action on lost negotiable instrument.

53 In the case of any action founded upon a bill of exchange, promissory note, cheque, or any negotiable instrument, if it be proved that the instrument is lost, and if an indemnity be given by the plaintiff, to the satisfaction of the court, against the claims of any other person upon such instrument, the court may make such decree as it would

have made if the plaintiff had produced the instrument in court when the plaint was presented, and had at the same time delivered a copy of the instrument to be filed with the plaint.

Document not produced with plaint inadmissible afterwards without leave.

54 A document which ought to be produced in court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint, and which is not produced or entered accordingly, shall not, without the leave of the court, be received in evidence on his behalf at the hearing of the action.

Nothing in this section applies to documents produced for cross-examination of the defendant's witnesses, or in answer to any case set up by the defendant, or handed to a witness merely to refresh his memory.

CHAPTER VIII.

Of the Issue and Service of Summons.

Issue.

Summons.

55 Upon the plaint being filed, and the copies or concise statements required by section 49 presented, the court shall order a summons in the form No. 16 in the second schedule hereto to issue, signed by the secretary or clerk of the court, requiring the defendant to appear and to answer the plaint on a day to be specified in the summons, and to be fixed with reasonable regard to the distance of the defendant's usual place of abode from the court-house, and the current business of the court. The summons, together with such copy or concise statement, each translated into the language of the defendant, attached thereto, shall be delivered under a precept from the court in the form No. 17 in the said schedule, or to the like effect, to the fiscal of the district in which the defendant resides, who shall cause the same to be duly served on the defendant, or on each defendant if more than one, and shall, as hereinafter provided, return the same and the execution thereof to the court, duly verified by the officer to whom the actual service thereof has been entrusted.

Court may order defendant to appear in person; or plaintiff.

56 If the court sees reason to require the personal appearance of the defendant, the summons shall order him to appear in person in court on the day therein specified.

57 If the court sees reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance.

Summons to order production of documents required by plaintiff or relied on by defendant.

58 The summons to appear and answer shall order the defendant to produce any document in his possession or power, containing evidence relating to the merits of the plaintiff's case, or upon which the defendant intends to rely in support of his case.

Service.-

Personal service of summons, what is.

59 Subject to the several provisions as to service hereinafter in chapter XXIII. contained, service of the summons shall be made by delivering or tendering to the defendant personally a duplicate thereof.

Service to be personal if practicable; otherwise as court may direct.

60 Whenever it may be practicable, the service of summons shall be made on the defendant in person; but if, after reasonable exertion, the fiscal is unable to effect personal service, he shall report such inability to the court in a fair-written return to the precept, having the summons attached thereto as an exhibit, and it shall be competent for the court, on being satisfied by evidence adduced before it that the defendant is within the island, to prescribe any other mode of service as an equivalent for personal service.

Substituted service to be as effectual as personal,

61 The service substituted by order of the court shall be as effectual as if it had been made on the defendant personally.

and court to fix time for appearance.

62 Whenever service is substituted by order of the court the court shall fix such time for the appearance of the defendant as the case may require.

When more defendants than one, service on each

63 When there are more defendants than one, service of the summons shall be made on each defendant.

Agents and proctors holding powers of attorney to confess judgment to accept service;

partners, and manager;

64 When a defendant has an agent appointed under section 30 or a proctor holding a warrant or power of attorney under section 31 empowered to accept service, service of summons on such agent or proctor shall be sufficient. And in the case of an action against partners relative to a partnership transaction, or to an actionable wrong in respect of which relief is claimable from the partners, as a firm, each partner is an agent so empowered of each other partner, as is also the person (if any) not being a partner, who has the management of the business of the partnership at the principal place of such business within the local limits of the court's ordinary jurisdiction.

When defendant out of jurisdiction has manager within it.

65 In an action relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the court from which the summons issued, service on any manager or agent who at the time of service personally carries on such business or work for such person within such limits, shall be deemed good service: and for the purpose of this section the master of a ship is the agent of his owner or charterer.

Service on agent in charge of immovable property.

66 In an action to recover money due on a mortgage secured upon immovable property, or to obtain relief respecting or compensation for wrong to immovable property, if the service cannot be made on the defendant in person, and the defendant has no agent empowered to accept service, it may be made on any agent of the defendant in charge of the property: but without prejudice to the plaintiff's right to proceed under sections 645, 646, and 647.

67 No misnomer or misdescription of any person or place in any such summons, order, or process shall vitiate the same, provided that the person or place be therein described as he or it is commonly known, and provided that such misnomer or misdescription be not such as to mislead the party served therewith.

Misdescription not to vitiate summons, &c.

68 If the defendant be in jail, the summons shall be delivered by the fiscal to the officer in charge of the jail in which the defendant is confined, and such officer shall cause the summons to be served upon the defendant.

The summons shall be returned through the fiscal to the court from which it issued, with a statement of the service endorsed thereon, and signed by the officer in charge of the jail.

Service on defendant in jail.

69 Service of a summons out of the colony may be allowed by the court in all cases in which the court has jurisdiction. Every application for an order for leave to serve such summons on a defendant out of the colony shall be by motion and shall be supported by evidence (by affidavit or otherwise) showing in what place or country such defendant is or may probably be found, and the grounds on which the application is made.

Service out of the colony

Application for, what.

70 Every order giving leave to effect such service shall prescribe the mode of service, and shall direct that the defendant is to enter appearance within such time after service as the court directs.

Order for, to prescribe mode of.

71 A summons under sections 69 and 70 shall be in the form No. 18 in the second schedule hereto.

Form of summons.

CHAPTER IX.

Of the Appearance and Answer.

72 On the day fixed in the summons for the defendant to appear and answer, if the parties appear in court, the defendant shall be called upon to answer the plaint. If the defendant shall then admit the claim of the plaintiff, the court shall give judgment against the defendant according to the admission so made.

Defendant to answer on day for appearance.

Explanation.—A party appears in court when he is there present in person to conduct his case, or is represented there by a proctor or other duly authorized person.

73 If the defendant does not admit the plaintiff's claim, he shall himself, or his proctor shall on his behalf, deliver to the court a duly stamped written answer; or in the court of requests the defendant may state his answer *vivâ voce* in open court to the commissioner, who shall reduce the same into writing upon a stamp being supplied by the defendant, such as would be required for a written answer; and the said

Answer to be in writing; or in court of requests may be given by parol and reduced to writing.

stamp shall be affixed to the record of the said statement, and the statement so taken down and stamped shall in such case be the defendant's answer.

Extension of time to answer.

74 In the event of the defendant or his proctor on his behalf not being prepared on the day fixed for appearance and answer to file or state his answer as aforesaid, the court may then, or at any subsequent time, if the action is not sooner determined, upon notice to the plaintiff, and provided cause therefor is shown to the satisfaction of the court, or upon the plaintiff's consent, extend the time for that purpose to a day to be fixed by the court.

Requisites of answer.

75 Every such answer shall be distinctly written in the English language upon good and suitable paper, shall be duly stamped, shall be subscribed by the defendant or his duly constituted representative as in the case of a plaint is provided for the plaintiff's subscription, or if he is represented by a proctor, by such proctor, and shall contain the following particulars :

(*a*) The name of the court, the number of the case, and the date of filing the answer;

(*b*) The name of the plaintiff;

(*c*) The name, description, and residence of the defendant;

(*d*) A statement admitting or denying the several averments of the plaint, and setting out in detail plainly and concisely the matters of fact and law, and the circumstances of the case upon which the defendant means to rely for his defence ; this statement shall be drawn in duly numbered paragraphs, referring by number, where necessary, to the paragraphs of the plaint ;

(*e*) When the defendant sets up a claim in reconvention, the answer must contain a plain and concise statement of the facts constituting the ground of such claim which the defendant makes in reconvention. A claim in reconvention duly set up in the answer shall have the same effect as a plaint in a cross action, so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross claim ; but it shall not affect the lien upon the amount decreed of any proctor in respect of the costs payable to him under the decree.

Jurisdiction of court to be specially traversed.

76 If the defendant intends to dispute the averment in the plaint as to the jurisdiction of the court, he must do so by a separate and distinct plea, expressly traversing such averment.

Rejection and amendment of answer.

77 If any answer is substantially defective in any of the particulars hereinbefore defined, or is argumentative or prolix, or contains matter irrelevant to the action, the court may, by an order to be endorsed thereon, reject the same or return it to the party by whom it was made, for amendment within a time to be fixed by the court, imposing such terms as to costs or otherwise as the court thinks fit.

If the answer is rejected or left unamended as ordered, the defendant shall be regarded as having failed to file answer.

The order so endorsed shall specify the ground of the rejection.

78 A copy of the answer shall be served on the proctor (if any) of the plaintiff, or left with the secretary or clerk of the court for delivery to the plaintiff, or each of the plaintiffs if more than one.

Copy of answer to be delivered to plaintiff.

CHAPTER X.

Of the Replication and Further Pleadings.

79 Except in the case of a claim by a defendant in reconvention, no pleading after answer shall be filed except by order of court on special motion to be made after due notice to the other side, and before the day appointed for the hearing of the action, upon such terms as to costs and the postponement of the hearing of the action as the court shall think fit. Such order shall not be made (except in the case of a claim in reconvention on the part of the defendant) unless the court is satisfied on such motion that the real issues between the parties cannot be conveniently raised without such further pleading. All pleadings after answer shall be subject to the rules prescribed by section 75 relative to the form and substance of the answer, so far as the same can be made applicable, and copies of such pleadings shall be served on the proctor of, or left with the secretary or clerk of the court for delivery to, the opposite party.

Replication may be allowed, when :

and further pleadings.

CHAPTER XI.

Of Fixing Day of Trial.

80 Forthwith on the expiration of the time allowed for the filing of the defendant's answer, or, where a replication is permitted, on the last day of the time allowed for filing such replication, and whether the same is filed or not, the court shall appoint a day for the hearing and determination of the action, and shall give notice thereof to the parties. Provided that the court may subsequently, on application made by either party, and after hearing both parties, or after proof of notice of motion to the absent party, direct that the day for the hearing of any case shall be advanced or deferred.

Day of trial.

81 The court shall, in fixing the day of hearing, be careful not to appoint more cases for one day than there is a probability of the court getting through on that day.

A reasonable number of cases to be fixed for each day.

82 When any case is in its turn called on for hearing upon the day appointed therefor, the court may, for sufficient cause to be specified in its written order, direct that the hearing be postponed to a day, which shall be fixed in the order, upon such terms as to costs or otherwise as the court

Postponement.

Proviso.

shall think fit. Provided that the court may in its discretion take and deal with a case out of its order in the cause list on any day for good reason to be adjudicated upon and recorded by the court before entering upon the case.

Undisposed of cases to be placed at the head of the roll.

83 The cases in any day's cause list not disposed of on that day, by reason of want of time, will be placed at the head of the next court-day's cause list, unless the judge direct otherwise.

As soon as the cause list for any day is prepared, legibly-written copies of it in English and the language or languages of the parties shall be placed in some fit and conspicuous place outside the court-house, so that the suitors and all others interested may be enabled readily to be informed of the contents of the same.

CHAPTER XII.

Of the Consequences and Cure (when permissible) of Default in Appearing or Pleading.

Non-appearance of plaintiff.

84 If the plaintiff fails to appear on the day fixed for the appearance and answer of the defendant, or on the day appointed for the filing of the answer, or for the filing of the replication, or for the hearing of the action, and if the defendant on the occasion of such default of the plaintiff to appear is present in person or by proctor, and does not admit the plaintiff's claim, and does not consent to postponement of the day for the hearing of the action, the court shall pass a decree *nisi* in the form No. 21 in the second schedule hereto, or to the like effect, dismissing the plaintiff's action, which said decree shall, at the expiration of fourteen days from the date thereof, become absolute, unless the plaintiff shall have previously, on some day of which the defendant shall have notice, shown to the court good cause, by affidavit or otherwise, for his non-appearance.

In case of such cause being shown, the court shall set aside the decree, and shall fix a day for proceeding with the action on such terms as to costs or otherwise as the court shall think fit, and shall cause notice to be issued to the defendant to be ready on that day to proceed with his defence as if it were the day originally appointed for appearance and answer, or for subsequently filing the answer or filing the replication, or for hearing, as the case may be.

If the defendant consents to an adjournment for the purpose either of his answer being filed or of the action being heard, the court shall appoint a day for that purpose and issue notice thereof to the plaintiff.

If, notwithstanding that the plaintiff fails to appear, the defendant admits the plaintiff's claim, judgment shall be given accordingly.

On non-appearance of defendant, decree *nisi*.

85 If the defendant fails to appear on the day fixed for his appearance and answer, or if he fails to appear on the day fixed for the subsequent filing of his answer, or for the filing of the replication, or on the day fixed for the hearing of the action, and if the court is satisfied by affidavit of the process server, stating the facts and circumstances of the service, or otherwise, that the defendant has been duly served with summons, or has received due notice of the day fixed for subsequent filing of answer, or of replication, or of the day fixed for the hearing of the action, as the case may be, or if the defendant shall fail to file his answer on the day fixed therefor, and if on the occasion of such default of the defendant the plaintiff appears, then the court shall proceed to hear the case *ex parte* and to pass a decree *nisi* in favour of plaintiff in the form No. 22 in the second schedule hereto or to the like effect, and shall thereupon issue to the defendant a notice of such decree. Such notice shall be served personally unless the court, for sufficient cause to be assigned by it, direct some other mode of service.

If defendant fail to excuse his default, decree *nisi* to be made absolute;

86 If the defendant does not appear on the day appointed in the decree *nisi* for showing cause, and if the court is satisfied that notice of the decree has been duly served, or if having appeared to the notice, the defendant shall fail to satisfy the court that he had reasonable grounds for the default in appearing or in filing answer, as the case may be, by reason of which the decree *nisi* was passed, then the court shall make the decree absolute, and the order of the court to that effect may be endorsed on the decree *nisi*, or otherwise duly recorded in the proceedings, as is in this Ordinance hereinafter provided.

otherwise to be discharged.

If, however, the defendant shall satisfy the court that there were reasonable grounds for the default upon which the decree *nisi* was passed, then the court shall set aside the decree, and shall order the case to be proceeded with as from the stage at which the default was committed, upon such terms as to costs, notices, or otherwise as the court shall deem fit.

No appeal lies against decree for default, but

87 No appeal shall lie against any decree *nisi* or absolute for default; but if any defendant, against whom a decree absolute for default shall have been passed, shall within a reasonable time after such decree appear and satisfy the court, upon notice to the plaintiff, by good and sufficient evidence that he was prevented from appearing to show cause against the notice for making the decree absolute by reason of accident or misfortune, or by not having received due information of the proceedings, and shall, if the court shall in its discretion so require, give good and sufficient security to satisfy the plaintiff's claim and costs of action, the court may, upon such terms and conditions as such court shall think it just and right to impose, set aside the decree and direct that the action be proceeded with as from the stage at which the decree was for default of the defendant made.

court may set aside the decree, for cause shown.

Such order appealable.

The order setting aside or refusing to set aside the decree shall be accompanied by a judgment adjudicating upon the facts and specifying the grounds upon which it is made, and shall be liable to an appeal to the Supreme Court.

The mere consent of the plaintiff's proctor will not be reason sufficient to justify the court in setting aside the decree.

Neither party appearing, case to be struck off file.

88 If either on the day appointed for the defendant to appear and answer or for the subsequent filing of answer, or for filing the replication, neither party appears when the case is called on, the action shall be struck off the file of cases pending in the court. But the court shall have power, upon the application of either party, if made within a period of time which, under the circumstances, appears to the court reasonable, and upon notice to the other side, to restore the action to the file, upon such terms and conditions as it shall think fit, and to give the requisite directions for the action to be regularly proceeded with.

The order made on any application for the restoration of an action to the file, whether it grants or refuses the application, shall state the ground upon which it is based.

An order directing the action to be struck off the file will not operate as a bar to the institution of a fresh action upon the same cause of action.

Where two or more defendants severally liable.

89 In the case of an action against two or more defendants alleged to be severally liable, where a summons is served upon any of them, the plaintiff may proceed against the person or persons served as if no other defendant were named in the summons. Where it is served upon all of them, the plaintiff may take judgment against one or more of them, where he would be entitled to judgment if the action was against him or them alone. Where judgment is so taken, the plaintiff may proceed in the same action against the other defendants.

One of many defendants appearing, no decree for default need be passed against others.

90 In the case of an action where there are more defendants than one, the court shall not be obliged to pass a decree for default against a defendant for failing to appear at a stage of the action, provided that one defendant at least appears at that stage against whom the action must proceed.

CHAPTER XIII.

Of Motions.

Motions.

91 Every application made to the court in the course of an action, incidental thereto, and not a step in the regular procedure, shall be made by motion by the applicant in person or his advocate or proctor, and a memorandum in writing of such motion shall be at the same time delivered to the court. In the court of requests such application may be made orally by the applicant in person and then reduced into writing by the court, in accordance with the rules of summary procedure hereinafter prescribed.

CHAPTER XIV.

Of the Journal.

Journal.

92 With the institution of the action the court shall commence a journal entitled as of the action, in which shall be minuted, as they occur, all the events in the course of the action, *i.e.*, the original application, and every subsequent step, proceeding, and order; each minute shall be signed and dated by the judge, and the journal so kept shall be the principal record of the action.

CHAPTER XV.

Of Amendment.

Amendments of pleadings.

93 At any hearing of the action, or at any time in the presence of, or after reasonable notice to, all the parties to the action before final judgment, the court shall have full power of amending in its discretion, and upon such terms as to costs and postponement of day for filing answer or replication, or for hearing of cause, or otherwise, as it may think fit, all pleadings and processes in the action, by way of addition, or of alteration, or of omission. And the amendments or additions shall be clearly written on the face of the pleading or process affected by the order; or if this cannot conveniently be done, a fair draft of the document as altered shall be appended to the document intended to be amended, and every such amendment or alteration shall be initialled by the judge.

CHAPTER XVI.

Of Discovery, Inspection, Production, Impounding, and Return of Documents.

Interrogatories.

94 Any party may at any time before hearing, by leave of the court to be obtained on motion *ex parte*, deliver through the court interrogatories in writing for the examination of the opposite party, or, where there are more opposite parties than one, any one or more of such parties, with a note at the foot thereof stating which of such interrogatories each of such persons is required to answer.

Provided that no party shall deliver more than one set of interrogatories to the same person without the permission of the court, and that no defendant shall deliver interrogatories for the examination of the plaintiff unless such defendant has previously tendered his answer, and such answer has been received and placed on the record.

For the purposes of this chapter, "opposite party" means a party between whom and the party interrogating an issue has been raised.

Service of interrogatories.

95 Interrogatories delivered under the last section shall be served on the proctor (if any) of the party interrogated, or in the manner hereinbefore provided for the service of summons, and the provisions herein contained with regard to service of summons shall, in the latter case, apply, so far as may be practicable.

Cost of unreasonable interrogatories to be borne by party in fault.

96 The court, in adjusting the costs of the action, shall, at the instance of any party, inquire, or cause inquiry to be made, into the propriety of delivering such interrogatories; and if it thinks that such interrogatories have been delivered unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories, and the answers thereto, shall be borne by the party in fault.

Interrogatories to company, &c.

97 If any party to an action is a body corporate or a joint stock company, whether incorporated or not, or any other body of persons empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply to the court for an order allowing him to deliver interrogatories to any member or officer of such corporation, company, or body, and an order may be made accordingly.

When party may refuse to answer.

98 Any party called upon to answer interrogatories, whether by himself or by any such member or officer, may refuse to answer any interrogatory on the ground that it is scandalous or irrelevant, or is not put *bonâ fide* for the purposes of the action, or that the answer will tend to criminate himself, or that the matter inquired after is not sufficiently material at that stage of the action, or on any other like ground.

To be answered by affidavit.

99 Interrogatories shall be answered by affidavit to be filed in court within ten days from the service thereof, or within such further time as the court may allow.

Application for further answer.

100 If any person interrogated omits or refuses to answer or answers insufficiently any interrogatory, the party interrogating may apply to the court for an order requiring him to answer or to answer further, as the case may be. And an order may be made requiring him to answer or to answer further, either by an affidavit or by *vivâ voce* examination, as the court may direct: Provided that the court shall not require an answer to an interrogatory which in its opinion need not have been answered under section 98.

Notice to admit documents.

101 Either party may, by a notice issued by order of court, to be obtained on motion *ex parte* within a reasonable time not less than ten days before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the genuineness of any document material to the action.

The admission shall also be made in writing, signed by the other party or his proctor, and filed in court.

If such notice be not given, no costs of proving such document shall be allowed, unless the court otherwise orders.

If such notice is not complied with within four days after its being served, and the court thinks it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the result of the action.

Order for discovery of documents.

102 The court may, at any time during the pendency therein of any action, order any party to the action to declare by affidavit all the documents which are or have been in his possession or power relating to any matter in question in the action, and any party to the action may, at any time before the hearing, apply to the court for a like order.

Every affidavit made under this section shall specify which, if any, of the documents therein mentioned the declarant objects to produce, together with the grounds of such objection.

Order for production of documents.

103 The court may, at any time during the pendency therein of any action, order the production by any party thereto of such of the documents in his possession or power relating to any matter in question in such action or proceeding as the court thinks right; and the court may deal with such documents when produced in such manner as appears just.

Notice to produce documents for inspection.

104 Any party to an action may, at any time before or at the hearing thereof, by motion *ex parte* obtain an order of court for notice to issue to any other party in whose pleadings or affidavits reference is made to any document, to produce such document for the inspection of the party giving such notice, or of his proctor, and to permit such party or proctor to take copies thereof.

No party failing to comply with such notice shall afterwards be at liberty to put any such document in evidence on his behalf in such action, unless he satisfies the court that such document relates only to his own title, or that he had some other and sufficient cause for not complying with such notice.

Time and place of such production to be specified by party receiving notice;

105 The party to whom such notice is given shall, within ten days from the receipt thereof, deliver through the court to the party giving the same a notice stating a time within three days from such delivery at which the documents, or such of them as he does not object to produce, may be inspected at his proctor's office or some other convenient place, and stating which, if any, of the documents he objects to produce, and on what grounds.

otherwise, order for inspection to be made by court.

106 If any party served with notice under section 104 omits to give notice under section 105 of the time for inspection, or objects to give inspection, or names an inconvenient place for inspection, the party desiring it may apply to the court for an order of inspection.

Application for order to be supported by affidavit.

107 Except in the case of documents referred to in any pleading or affidavit of the party against whom the application is made, or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing

(*a*) of what documents inspection is sought, (*b*) that the party applying is entitled to inspect them, and (*c*) that they are in the possession or power of the party against whom the application is made.

Court may reserve question as to discovery or inspection.

108 If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof, and if the court is satisfied that the right of such discovery or inspection depends on the determination of any issue or question in dispute in the action, or that for any other reason it is desirable that any such issue or question should be determined before deciding upon the right to the discovery or inspection, the court may order that the issue or question be determined first, and reserve the question as to the discovery or inspection.

Consequence of not complying with order under this chapter.

109 If any party fails to comply with any order under this chapter to answer interrogatories, or for discovery, production, or inspection, which has been duly served, he shall, if a plaintiff, be liable to have his action dismissed for want of prosecution, and if a defendant, to have his defence, if any, struck out, and to be placed in the same position as if he had not appeared and answered.

And the party interrogating or seeking discovery, production, or inspection may apply to the court for an order to this effect, and the court may make such order accordingly.

Any party failing to comply with any order under this chapter to answer interrogatories, or for discovery, production, or inspection which has been served personally upon him, shall also be deemed guilty of the offence of contempt of court.

Court may inspect records of other courts.

110 The court may of its own accord, or in its discretion upon the application of any of the parties to an action, send for, either from its own records or from any other court, the record of any other action or proceeding, and inspect the same.

Every application made under this section shall (unless the court otherwise directs) be supported by an affidavit of the applicant or his proctor, showing how the record is material to the action in which the application is made, and that the applicant cannot, without unreasonable delay or expense, obtain a duly authenticated copy of the record or of such portion thereof as the applicant requires, or that the production of the original is necessary for the purposes of justice. Nothing in this section shall be deemed to enable the court to use in evidence any document which by the law of evidence in force in this colony would be inadmissible in the action.

Parties to be ready with all documents at trial.

111 The parties or their proctors shall bring with them, and have in readiness at the hearing of the action, to be produced when called for by the court, all the documentary evidence of every description in their possession or power, on which they intend to rely, and which has not already been filed in court, and all documents which the court at any time before such hearing has ordered to be produced.

Document called for and not produced shall not be received afterwards.

112 No documentary evidence in the possession or power of any party which should have been, but has not been, produced in accordance with the requirements of section 111, shall be received at any subsequent stage of the proceedings, unless good cause be shown to the satisfaction of the court for the non-production thereof. And the court on receiving any such evidence shall record its reason for so doing.

Documents to be received by court.

113 The court shall receive the documents respectively produced by the parties at the hearing, provided that the documents produced by each party be accompanied by an accurate list thereof.

Rejection of irrelevant or inadmissible documents.

The court may at any stage of the action reject any document which it considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.

No documents to be placed on record unless proved.

Proved documents to be marked and filed.

114 No document shall be placed on the record unless it has been proved or admitted in accordance with the law of evidence for the time being in force. Every document so proved or admitted shall be endorsed with some number or letter sufficient to identify it. The judge shall then make an entry on the record to the effect that such document was proved against or admitted by (as the case may be) the person against whom it is used, and shall in such entry refer to such document by such number or letter in such a way as to identify it with the document so proved or admitted. The document shall then be filed as part of the record.

All documents produced at the hearing and not so proved or admitted shall be returned to the parties respectively producing them.

Court may order any document to be impounded.

115 Notwithstanding anything contained in section 114, the court may, if it sees sufficient cause, direct any document or book produced before it in any action to be impounded and kept in the custody of an officer of the court for such period and subject to such conditions as the court thinks fit.

When document admitted in evidence may be returned.

116 When an action has been disposed of, or when the time for preferring an appeal from the decree has elapsed, or if an appeal has been preferred, then after the appeal has been disposed of, any person, whether a party to the action or not, desirous of receiving back any document produced by him in the action, and placed on the record, shall, unless the document is impounded under section 115, be entitled to receive back the same. Provided that a document may be returned at any time if the person applying for such return deliver to the proper officer a certified copy of such document to be substituted for the original. And provided, further, that no document shall be returned which by force of the decree has become void or useless.

Certain documents not to be returned.

Receipt for returned documents.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt book to be kept for the purpose.

Provisions as to documents apply to other material objects.

117 The provisions herein contained as to documents shall, so far as may be, apply to all other material objects producible as evidence.

Translations of Documents.

Translations of documents.

118 No translation of any document tendered in evidence in any court shall be permitted to be read as a translation of such document, unless the same shall be signed by an interpreter of the Supreme Court, or by a Government sworn translator, or by a sworn translator or interpreter of some district court or court of requests.

Who shall be deemed a translator.

119 No person other than an interpreter of the Supreme Court, or a Government sworn translator, or an interpreter of a district court or court of requests shall be deemed to be a translator of any court unless he shall have received a certificate from the judge or commissioner of such court that he is competent to fulfil the duties of a translator, and shall have taken an oath before such judge or commissioner faithfully to perform the duties of his office.

Fees of translators.

120 No such translator as aforesaid shall be entitled to have or recover in respect of fees for any translation any sum of money in excess of the following rates, viz.:

For every folio of 120 words ...	...	33 cents
For every fractional part of a folio	...	33 cents

CHAPTER XVII.

Of Witnesses.

Summonses to witnesses.

121 The parties may, after the summons has been delivered for service on the defendant, obtain, on application to the court or to such officer as the court appoints in that behalf, before the day fixed for the hearing, summonses to persons whose attendance is required either to give evidence or to produce documents. A list of witnesses shall be filed in court by the party applying for such summonses, after notice to the other side, and within such time before the trial as the judge shall consider reasonable, or at any time before the trial with the consent of the other side appearing on the face of such list.

Payment of witness' costs.

122 The party applying for a summons shall, before the summons is granted, and within a period to be fixed by the court, pay into court, or give security for payment of, such a sum of money as appears to the court to be sufficient to defray the travelling and other expenses of the person summoned, in passing to and from the court in which he is required to attend, and for one day's attendance. Provided that in the case of a witness residing within four miles of the court at which his attendance is required, no such payment shall be made nor security given: and provided further that the making of any such payment and the giving of any such security shall in no case be a condition precedent to the issue of a summons, but in every case (except the case of a

witness residing within four miles from the court) where summons issues without such payment having been made or security given, the witness shall be informed on the face of the summons that such is the case, and that it is not obligatory on him to attend.

To be made before he gives evidence.

123 The sum so paid into court, or so secured, shall at latest be paid or tendered to the person summoned at the time when he is called on to give his evidence, if he demands the same.

Court may order a further sum to be paid.

124 If it appears to the court or to such officer as it appoints in this behalf that the sum paid into court is not sufficient to cover such expenses, the court may direct such further sum to be paid to the person summoned as appears to be necessary on that account: and in case of default in payment, may, by writ issued to the fiscal, order such sum to be levied by sequestration and sale of the movable property of the party obtaining the summons, as is hereinafter provided; or the court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Expenses of detention.

125 If it is necessary to detain the person summoned for a longer period than one day, the court may from time to time order the party at whose instance he was summoned to pay into court such sum as is sufficient to defray the expenses of his detention for such further period; and in default of such deposit being made, may, by writ issued to the fiscal, order such sum to be levied by sequestration and sale of the movable property of the party at whose instance he was summoned; or the court may discharge the person summoned without requiring him to give evidence; or may both order such levy and discharge such person as aforesaid.

Summons to specify time, place, and purpose of attendance.

126 Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned is called on to produce shall be described in the summons with reasonable accuracy. If money has been deposited or security given for his expenses under the provisions of section 122, the summons shall contain a statement to that effect.

Summons to produce document.

127 Any person may be summoned to produce a document without being summoned to give evidence; and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Person in court may be required to produce a document.

128 Any person present in court may be required by the court to give evidence, or to produce any document then and there in his actual possession or power.

Service of summons.

129 Every summons to a person to give evidence or produce a document shall be served as nearly as may be in the manner hereinbefore prescribed for the service of summons on the defendant; and the rules contained in this Ordinance as to proof of service of summons on the defendant shall apply in case of all summonses served under this section.

Service must afford reasonable time for attendance.

130 The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned, to allow him a reasonable time for preparation and for travelling to the place at which his attendance is required.

When summons cannot be served proclamation may issue.

131 If the fiscal returns to the court that the summons for the attendance of a person, either to give evidence or to produce a document, cannot be served, the court may take evidence touching the non-service.

And upon being satisfied that such evidence or production is material, and that the person for whose attendance the summons has been issued is absconding, or keeping out of the way for the purpose of avoiding the service of summons, the court may in its discretion either issue a warrant for the apprehension of such witness or may issue a proclamation requiring him to attend to give evidence, or produce the document, at a time and place to be named therein; and a copy of such proclamation shall be affixed on the outer door of the house in which he ordinarily resides.

If he does not attend at the time and place named in such proclamation, the court may in its discretion, at the instance of the party on whose application the summons was issued, make an order for the sequestration of the property of the person whose attendance is required, to such amount as the court thinks fit, not exceeding the amount of the costs of sequestration and of the fine which may be imposed under section 133.

If witness appears, sequestration may be withdrawn.

132 If, on the sequestration of his property, such person appears and satisfies the court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the court shall direct that the property be released from sequestration, and shall make such order as to the costs of the sequestration as it thinks fit.

Procedure when witness fails to appear.

133 If such person does not appear, or, appearing, fails to satisfy the court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the court may impose upon him such fine, in the case of the court of requests not exceeding fifty rupees, and in the case of the district court not exceeding two hundred rupees, as the court thinks fit, having regard to his condition in life and all the circumstances of

the case; and may order the property sequestered, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such sequestration, together with the amount of the said fine, if any.

Provided that if the person whose attendance is required pays into court the costs and the fine as aforesaid, the court shall order the property to be released from sequestration.

Court may summon and examine as witnesses persons strangers to the action.

134 Subject to the rules of this Ordinance as to attendance and appearance, if the court at any time thinks it necessary to examine any person other than a party to the action, and not named as a witness by a party to the action, the court may, of its own motion, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession, on a day to be appointed; and may examine him as a witness, or require him to produce such document.

Person summoned must attend.

135 Subject as last aforesaid, whoever is summoned to appear and give evidence in an action must attend at the time and place named in the summons for that purpose, and whoever is summoned to produce a document must either attend to produce it, or cause it to be produced, at such time and place.

When he may depart.

136 No person so summoned and attending shall depart unless and until—

(*a*) He has been examined or has produced the document, and the court has risen; or

(*b*) He has obtained the court's leave to depart.

May be arrested for non-compliance.

137 If any person on whom a summons to give evidence or produce a document has been served fails to comply with the summons, or if any person so summoned and attending departs in contravention of section 136, the court may order him to be arrested and brought before the court. Provided that no such order shall be made when the court has reason to believe that the person so failing had a lawful excuse for such failure.

Proviso.

When any person so brought before the court fails to satisfy it that he had a lawful excuse for not complying with the summons, he shall be deemed to be guilty of the offence of contempt of court, and punishable therefor.

Being so arrested court may release him on bail.

138 If any person so apprehended and brought before the court cannot, owing to the absence of the parties or any of them, give the evidence or produce the document which he has been summoned to give or produce, the court may require him to give reasonable bail or other security for his appearance at such time and place as it thinks fit, and on such bail or security being given may release him.

Procedure when witness absconds.

139 If any person so failing to comply with a summons absconds or keeps out of the way, so that he cannot be apprehended and brought before the court, the provisions of sections 131, 132, and 133 shall, *mutatis mutandis*, apply.

Court may pass decree against party refusing to give evidence.

140 If any party to an action being present in court refuses, without lawful excuse, when required by the court, to give evidence, or to produce any document then and there in his actual possession or power, the court may in its discretion either pass a decree against him, or make such other order in relation to the action as the court thinks fit, or may punish him as for a contempt of court.

These rules to apply to a party summoned to give evidence.

141 Whenever any party to an action is required to give evidence or to produce a document, the rules as to witnesses contained in this Ordinance shall apply to him, so far as they are applicable.

Nothing in this chapter contained shall be deemed in any way to contravene or affect the provisions of Ordinances Nos. 9 of 1852 or 12 of 1864, except in so far as the same may be hereby expressly repealed or modified.

Privilege from arrest.

142 Any person duly and in good faith summoned or ordered to attend for the purpose of being examined in a case is privileged from arrest in a civil action or special proceeding while going to, remaining at, and returning from, the place where he is required to attend.

CHAPTER XVIII.

Of Adjournments.

Adjournments

143 The court may, if sufficient cause be shown, at any stage of the action grant time to the parties, or to any of them, and may from time to time adjourn the hearing of the action.

In all such cases the court shall fix a day for the further hearing of the action, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment.

Provided that, when the hearing of evidence has once begun, the hearing of the action shall be continued from day to day until all the witnesses in attendance have been examined, unless the court finds the adjournment of the hearing to be necessary for reasons to be recorded and signed by the judge.

Non-appearance of a party on the postponed day.

144 If, on any day to which the hearing of the action is adjourned, the parties or any of them fail to appear, the court may proceed to dispose of the action in one of the modes directed in that behalf by chapter XII., or make such other order as it thinks fit.

Default of party to carry out purpose of adjournment.

145 If any party to an action, to whom time has been granted, fails to produce his evidence, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the action, for which time has been allowed, the court may, notwithstanding such default, proceed to decide the action forthwith.

CHAPTER XIX.

Of the Trial.

Framing of issues.

146 On the day fixed for the hearing of the action, or on any other day to which the hearing is adjourned, if the parties are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and the court shall proceed to determine the same. If the parties, however, are not so agreed, the court shall, upon the allegations made in the plaint, or in answer to interrogatories delivered in the action, or upon the contents of documents produced by either party, and after such examination of the parties as may appear necessary, ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to record the issues on which the right decision of the case appears to the court to depend.

Nothing in this section requires the court to frame and record issues when the defendant makes no defence.

Trial of issues of law first.

147 When issues both of law and of fact arise in the same action, and the court is of opinion that the case may be disposed of on the issues of law only, it shall try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined.

Adjournment for evidence.

148 If the court is of opinion that the issues cannot be correctly framed without the examination of some person not before the court, or without the inspection of some document not produced in the action, it may adjourn the framing of the issues to a future day to be fixed by the court, and may compel the attendance of such person or the production of such document by summons or other process.

Amendment of issues.

149 The court may, at any time before passing a decree, amend the issues or frame additional issues on such terms as it thinks fit.

Statement and production of evidence by party having right to begin.

150 The party having the right to begin shall state his case, giving the substance of the facts which he proposes to establish by his evidence.

Rules as to right to begin.

Explanation 1.—The plaintiff has the right to begin unless where the defendant admits the facts alleged by the plaintiff, and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of the relief which he seeks, in which case the defendant has the right to begin.

Explanation 2.—The case enunciated must reasonably accord with the party's pleadings, *i.e.*, plaint or answer as the case may be. And no party can be allowed to make at the trial a case materially different from that which he has placed on record, and which his opponent is prepared to meet. And the facts proposed to be established must in the whole amount to so much of the material part of his case as is not admitted in his opponent's pleadings.

Examination-in-chief.

151 After stating his case in person, or by his proctor or counsel, the same party shall produce his evidence, calling his witnesses and by questions eliciting from each of them the relevant and material facts to which such witness can speak of his own observation.

Explanation.—The questions should be simple, and so framed as to obtain from the witnesses, as nearly as may be in a chronological order, a narrative of all the facts relevant to the matter in issue between the parties which he has witnessed—*i. e.*, which he has in any manner directly observed or perceived, and no others. And on any disputed point the question should not be such as to *lead*, or suggest, the answer; nor such as to induce a witness, other than an expert, to state a conclusion of his reasoning, an inference of fact, or a matter of belief, in the place of describing what he actually observed.

Also, a general request to a witness to tell what he knows, or to state the facts of the case, is, as a rule, not to be permitted, because it gives an opening for a prepared story.

Nothing in this explanation operates to prevent a witness from stating hearsay, or giving any opinion, where the hearsay or opinion is a relevant fact in the case.

Cross-examination

152 After the examination-in-chief by the party who called the witness, the cross-examination of the same witness, if required, shall in like manner be effected by the opposite side, only that in this case leading questions may be put.

Re-examination.

153 Then shall follow re-examination by the first side, if required, for the purpose of enabling the witness to explain such answers given by him on cross-examination as may have left facts imperfectly stated by him, and to add such further facts as may have been suggested and made admissible by the cross-examination.

Explanation.—During the course of the examination, cross-examination, and re-examination, the court ought not, as a general rule, to interfere, except when necessary for the purpose of causing questions to be put in a clear and proper shape, of checking improper questions, and of making the witness give precise answers. At the end of it, however, if it has been reasonably well conducted, the court ought to know fairly the position of the witness with regard to the material facts of the case, and it should then put such questions to the witness as it may consider necessary to possess itself of all the detailed relevant facts to which the witness can speak from personal observation, or which bear upon his trustworthiness.

Tender of documents in evidence.

154 Every document or writing which a party intends to use as evidence against his opponent must be formally tendered by him in the course of proving his case at the time when its contents or purport are first immediately spoken to by a witness. If it is an original document already filed in the record of some action, or the deposition of a witness made therein, it must previously be procured from that record by means of, and under an order from the court. If it is a portion of the pleadings, or a decree or order of court made in another action, it shall not generally be removed therefrom, but a certified copy thereof shall be used in evidence instead.

It shall not be competent to the court to admit in evidence the entire body of proceedings and papers of another action indiscriminately. Each of the constituent documents, pleadings, or processes of the former action, which may be required in the pending action, must be dealt with separately as above directed.

Records of other actions not to be admitted in bulk.

The document or writing being admitted in evidence, the court, after marking it with a distinguishing mark or letter by which it should, when necessary, be ever after referred to throughout the trial, shall cause it, or so much of it as the parties may desire, to be read aloud.

Documents admitted to be marked.

Explanation.—If the opposing party does not, on the document being tendered in evidence, object to its being received, and if the document is not such as is forbidden by law to be received in evidence, the court should admit it.

If, however, on the document being tendered the opposing party objects to its being admitted in evidence, then commonly two questions arise for the court :

First, whether the document is authentic—in other words, is what the party tendering it represents it to be; and secondly, whether, supposing it to be authentic, it constitutes legally admissible evidence as against the party who is sought to be affected by it. The latter question in general is matter of argument only, but the first must be supported by such testimony as the party can adduce. If the court is of opinion that the testimony adduced for this purpose, developed and tested by cross-examination, makes out a *primâ facie* case of authenticity, and is further of opinion that the authentic document is evidence admissible against the opposing party, then it should admit the document as before.

If, however, the court is satisfied that either of those questions must be answered in the negative, then it should refuse to admit the document.

Whether the document is admitted or not, it should be marked as soon as any witness makes a statement with regard to it ; and if not earlier marked on this account, it must, at latest, be marked when the court decides upon admitting it.

155 Before a witness is allowed to, in any way, identify a document, he should generally be made, by proper questioning, to state the grounds of his knowledge with regard to it.

Identification of document.

Illustration.

If the witness is about to speak to the act, or factum, of signature he should first be made to explain concisely the occurrences which led to his being present on the occasion of the signing ; and if he is about to recognize a signature on the strength of his knowledge of the supposed signer's handwriting, he should first be made to state the mode in which this knowledge was acquired.

156 The questioning for this purpose should be effected by the party who is seeking to prove the document ; and the opposing party, if he desires to do so, should be allowed to interpose with cross-examination on this point before the document is shown to the witness.

Cross-examination as to knowledge.

Court to see witness thus tested.

157 It is the duty of the court, in the event of a witness professing to be able to recognize or identify writing, always to take care that his capacity to do so is thus tested, unless the opposite party admits it.

And to decide on his competency.

158 If on the examination effected for this purpose it appears to the court that the witness was not in fact present at the time of signing, or is not reasonably competent to identify the handwriting, then the court shall not permit him to give his testimony on the matter of the signature.

Signature by a mark how proved.

159 The signature of a person, which purports or which appears by the evidence to have been written by the pen of another, is not proved until both the fact of the writing and the authority of the writer to write the name on the document as a signature is proved.

This section applies to the case where the signature is a mark explained by the name written adjacent thereto.

Case of an illiterate person.

160 In the case of an illiterate person, who cannot read, it must also be proved that at the time when his name was written on, or his mark put to, the document, he understood the contents of it. Provided that where the name of such illiterate person shall have been written on, or his mark put to, any document for the purpose merely of attesting the signature of another, it shall not be necessary to prove that he understood the contents of such document, but it shall be sufficient to prove that he was aware of the purpose for which his name was so written or his mark so put, and that the person whose signature he purports to attest was known to him.

Case of documents whose execution need not be proved.

161 When the document purports on the face of it to be so old that proof of the actual execution is not required by law, it is not proved until sufficient evidence has been given to prove both that it comes into court from the proper custody, and that it has continued to be in proper custody throughout the period during which it can be reasonably accounted for.

Copy document when proved.

162 When the document, the admission of which is objected to, is put forward as the copy of an absent original, it is not proved until both such evidence as is sufficient to prove the correctness of the copy, and also such evidence as would be sufficient to prove the original, had it been tendered instead of the copy, has been given.

NOTE.—The question whether a copy document is admissible in evidence between the parties in the place of the original is quite distinct from the question whether the document (original or copy) is admissible as evidence relevant to the issue under trial.

On termination of beginning party's case the opposing party to state and prove his in like manner.

163 When the party beginning has stated his case and adduced his evidence in accordance with the foregoing rules, then the opposing party or parties (if there are more than one, who have distinct cases) shall in person or by proctor or counsel, state his or their case or cases (and in the latter event in succession), and when the case of each opposing party has been so stated, each such party shall adduce in

order his evidence, oral and documentary, and the same shall be received and dealt with precisely as in the case of the party beginning, who shall then be entitled to reply. But where there are several issues, the burden of proving some of which lies on the other party or parties, the party beginning may at his option either produce his evidence on those issues or reserve it by way of answer to the evidence produced by the opposing party or parties: and in the latter case the party beginning may produce evidence on those issues after the other party or parties has or have produced all his or their evidence, and such other party or parties may then reply specially on the evidence so produced by the party beginning, but the party beginning will in that case be entitled to reply generally on the whole case.

Reply.

When rebutting evidence is admissible.

164 The court may at any time, whether before or after the examination of a witness by the respective parties or during such examination, put and interpose such questions as it may consider conducive to the attainment of truth and justice. And the answers to such questions shall be made to appear on the face of the record as having been given to the court.

Court may question witness.

165 The court may also in its discretion recall any witness, whose testimony has been taken, for further examination or cross-examination, whenever in the course of the trial it thinks it necessary for the ends of justice to do so.

Or recall witness.

166 The court may for grave cause, to be recorded by it at the time, permit a departure from the course of trial prescribed in the foregoing rules.

Court may permit a departure from above rules

167 The evidence of the witnesses shall be given orally, as above prescribed, in open court in the presence and under the personal direction and superintendence of the judge.

Evidence to be taken orally, on

168 Witnesses professing to be Christians or Jews, who have discretion to understand the nature of an oath, shall be examined upon oath, anything in the Ordinance No. 3 of 1842 to the contrary notwithstanding, unless they state that, according to their religious tenets or on other grounds they object to the taking of an oath, in which case they shall be examined on affirmation. Witnesses not professing to be Christians or Jews shall be examined on affirmation. The same rule shall apply to affidavits. And except when hereinafter otherwise expressly provided, the oath or affirmation shall be administered in open court.

oath or affirmation;

169 The evidence of each witness shall be taken down in writing in the English language by the judge, not ordinarily in the form of question and answer, but in that of a narrative.

and in English in narrative form;

170 The court may of its own motion or on the application of any party take down or cause to be taken down any particular question and answer, or any objection to any question, if there appear to the court any special reason for so doing.

but any particular question and answer may be written down,

also the objection to question which is allowed, and the decision of court thereon.

171 If any question put to a witness be objected to, and the court allows the same to be put, the judge may in his discretion take down in writing the question, the answer, the objection, and the name of the party making it, together with the decision of the court thereon.

Similarly when the objection is upheld.

172 If on objection made the court refuses to allow the question to be put, the judge shall, on the request of the questioner, take down in writing the question, the objection, and the name of the party making it, together with the decision of the court thereon.

Remarks of court on demeanour of witness.

173 The court may record such remarks as it thinks material respecting the demeanour of any witness while under examination.

Witness may be kept out of court.

174 The witnesses on either side or on both or all sides shall, on motion of any of the parties, be kept out of court and of hearing, except the witness immediately under examination; nor shall any witness, who shall remain in court or within hearing after order made to that effect, be permitted to give evidence, unless in the case of a witness called to prove some fact which has incidentally become essential in the course of the trial, and the necessity of which could not reasonably have been anticipated. And every witness who has been examined shall be kept separate from, and shall be allowed no communication with, those who still remain to be examined. Provided that it shall be lawful for the court in its discretion to allow any witness to be examined, if it shall think such examination conducive to the attainment of truth or justice, notwithstanding that such witness shall have remained in court or within hearing contrary to such order aforesaid.

Proviso.

List of witnesses must be filed.

175 No witness shall be called on behalf of any party unless such witness shall have been included in the list of witnesses previously filed in court by such party as provided by section 121. Provided, however, that the court may in its discretion, if special circumstances appear to it to render such a course advisable in the interests of justice, permit a witness to be examined, although such witness may not have been included in such list aforesaid. Provided also that any party to an action may be called as a witness without his name having been included in any such list.

Proviso.

Court may forbid indecent questions.

176 The court may forbid any questions or inquiries which it regards as indecent or scandalous, although such questions or inquiries may have some bearing on the questions before the court, unless they relate to facts in issue or to matters necessary to be known in order to determine whether or not the facts in issue existed.

And shall forbid insulting questions.

177 The court shall forbid any question which appears to it to be intended to insult or annoy, or which, though proper in itself, appears to the court needlessly offensive in form.

178 If a witness is about to leave the jurisdiction of the court, or if other sufficient cause is shown to the satisfaction of the court why his evidence should be taken immediately, the court may upon the application of either party or of the witness, at any time after the institution of the action and before trial, take the evidence of such witness in manner hereinbefore provided. Evidence *de bene esse.*

Where such evidence is not taken forthwith, and in the presence of the parties, such notice as the court thinks sufficient of the day fixed for the examination shall be given to the parties.

The evidence so taken may be read at any hearing of the action, provided that the witness cannot then be produced.

179 The court may at any time, for sufficient reason, order that any particular fact or facts may be proved by affidavit, or by depositions taken on commission, instead of by the testimony of witnesses given *vivâ voce* before it, or that the affidavit, or deposition taken on commission, of any witness may be read at the hearing of the action on such conditions as the court shall think reasonable. Provided that when it appears to the court that either party *bonâ fide* desires the production of a witness before the court for cross-examination *vivâ voce*, and that such witness can be so produced, an order shall not be made authorizing the evidence of such witness to be given otherwise than *vivâ voce.* Evidence taken on affidavit or on commission. Proviso.

180 In the event of an order having been made for the proof of facts by affidavit, or by deposition taken on commission, the court may, nevertheless, at the instance of either party order the attendance of the declarant or deponent at the hearing of the action for *vivâ voce* cross-examination, if he is in the island and can be produced. Court may examine witness *vivâ voce* notwithstanding affidavit or commission.

181 Affidavits shall be confined to the statement of such facts as the declarant is able of his own knowledge and observation to testify to, except on interlocutory applications, in which statement of his belief may be admitted, provided that reasonable grounds for such belief be set forth in the affidavit. Affidavits.

182 A petition stating facts of observation and belief is not converted into an affidavit by the addition of a verifying clause, on affirmation or oath, to the effect that the statements in the petition are true. Petitions.

183 In the case of any affidavit under this chapter— Who may administer oaths.

(*a*) Any court, or magistrate, or justice of the peace ; or

(*b*) Any officer whom the Supreme Court may appoint for the purpose (and who shall be styled "Commissioner to administer Oaths") may administer the oath to the declarant.

CHAPTER XX.

Judgment and Decree.

Judgment when pronounced.

184 The court, upon the evidence which has been duly taken or upon the facts admitted in the pleadings or otherwise, and after the parties have been heard either in person or by their respective advocates or proctors (or recognized agents), shall, after consultation with the assessors (if any), pronounce judgment in open court, either at once or on some future day, of which notice shall be given to the parties or their proctors at the termination of the trial.

On the day so fixed, if the court is not prepared to give its judgment, a yet future day may be appointed and announced for the purpose.

Who may pronounce.

185 A judge may pronounce a judgment written by his predecessor, but not pronounced.

To be written in English.

186 The judgment shall be written in English, and shall be dated and signed by the judge in open court at the time of pronouncing it.

Requisites of judgment.

187 The judgment shall contain a concise statement of the case, the points for determination, the decision thereon, and the reasons for such decision; and the opinions of the assessors (if any) shall be prefixed to the judgment and signed by such assessors respectively.

Decree.

188 As soon as may be after the judgment is pronounced, a formal decree bearing the same date as the judgment shall be drawn up by the court in the form No. 41 in the second schedule hereto, or to the like effect, specifying in precise words the order which is made by the judgment in regard to the relief granted or other determination of the action. The decree shall also state by what parties and in what proportions costs are to be paid, and in cases in the courts of requests shall state the amount of such costs. The decree shall be signed by the judge.

When it may be amended.

189 If the decree is found to be at variance with the judgment, or if any clerical or arithmetical error be found in the decree, the court shall, of its own motion or on that of any of the parties, amend the decree so as to bring it into conformity with the judgment or to correct such error:

Proviso.

Provided that reasonable notice has been given to the parties or their proctors of the proposed amendment.

When it is for immovable property;

190 When the decree relates to immovable property, the property affected thereby shall be described therein by the boundaries and in such other manner by reference to Government surveys or otherwise as may secure, as far as possible, correctness of identification.

for movable;

191 When the action is for movable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative, if delivery cannot be had.

192 When the action is for a sum of money due to the plaintiff, the court may in the decree order interest according to the rate agreed on between the parties by the instrument sued on, or in the absence of any such agreement at the rate of nine per cent. per annum to be paid on the principal sum adjudged from the date of the action to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the institution of the action, with further interest at such rate on the aggregate sum so adjudged, from the date of the decree to the date of payment, or to such earlier date as the court thinks fit. **for a sum of money.**

When such a decree is silent with respect to the payment of further interest on such aggregate sum as aforesaid from the date of the decree to the date of payment or other earlier date, the court shall be deemed to have refused such interest, and a separate action therefor shall not lie.

193 When the action is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the court, with the consent of the plaintiff, may decree the specific performance of the contract within a time to be fixed by the court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed. **For damages.**

194 In all decrees for the payment of money, except money due on mortgage of movable or immovable property, the court may order that the amount decreed to be due shall be paid by instalments, with or without interest, and the court may in its discretion impose such terms as it may think fit as to giving security for the payments so to be made. Provided always that on failure to pay the first or any other instalment, the whole amount or any balance then due shall on such failure become immediately payable. Provided also, that if the party ordered to pay by instalments shall appeal against the decree, and the appeal shall be decided against him, his right to pay by instalments shall cease, and the whole amount shall be immediately payable, unless the Supreme Court give express direction to the contrary. Provided also, that no appeal shall lie against the refusal of the court to make an order for payment by instalments. **Court may decree payment at a future time or by instalments. Proviso 1. Proviso 2. Proviso 3**

195 If the defendant shall have been allowed to set off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and the mandatory part of the decree shall be for the recovery of any balance which shall on that statement appear to be due to either party. The decree of the court with respect to anything awarded to the defendant on any matter on which the defendant obtains judgment by set off or in reconvention, shall be to the same effect, and be subject to the same rules, as if such thing had been claimed by the defendant in a separate action against the plaintiff. **Set off. Reconvention.**

196 When the action is for the recovery of the possession of immovable property yielding rent or other profit, the **Mesne profits pending action.**

court may, whenever the prayer of the plaint asks for damages in respect of mesne profits or rent, provide in the decree for the payment of money in lieu of mesne profits or rent in respect of such property from the date of the institution of the action until the delivery of possession to the party in whose favour the decree is made, with interest thereon at such rate not exceeding nine per cent. as the court thinks fit.

Explanation.—"Mesne profits" of property mean those profits which the person in wrongful possession of such property actually received, or might, with ordinary diligence, have received therefrom.

Prior to action.

197 When the action is for the recovery of possession of immovable property and for mesne profits which have accrued thereon during a period prior to the institution of the action, the court may either determine the amount and make an order for the payment thereof, additional to and embodied in the decree itself, or may pass a decree for the property and reserve the inquiry into the amount of mesne profits to be entered upon after the execution of the decree for the property, as may appear most convenient.

Interlocutory order for accounts.

198 When the action is for an account of any property and for its due administration under the decree of the court, the court, before making the final decree between the parties, shall order such accounts and inquiries to be taken and made, and give such other directions, as it thinks fit.

Administration by the court.

199 In the administration by the court of the property of any person who dies after this Ordinance comes into force, if such property proves to be insufficient for the payment in full of his debts and liabilities, the same rules shall be observed as to the respective rights of secured and unsecured creditors, and as to debts and liabilities provable, and as to the valuation of annuities and future and contingent liabilities respectively, as may be in force for the time being with respect to the estates of persons adjudged insolvent.

And all persons who in any such case would be entitled to be paid out of such property may come in under the decree for its administration and make such claims against the same as they may respectively be entitled to by virtue of this Ordinance.

Decree in action for pre-emption, &c.

200 When the action is to enforce a right of pre-emption in respect of a particular sale of property, and the court finds for the plaintiff, if the amount of purchase money has not been paid into court, the decree shall specify a day on or before which it shall be so paid, and shall declare that on payment of such purchase money, together with the costs (if any) decreed against him, the plaintiff shall obtain possession of the property, but that if such money and costs are not so paid on or before such day or any extension thereof which shall have been allowed for good cause shown, the action shall stand dismissed with costs.

In action to realize mortgage

201 When the action is to enforce a right of sale under a mortgage, and the court finds for the plaintiff, the decree

shall specify a day on or before which the money decreed to be due on the mortgage with interest thereon from date of action to date of payment and costs of action shall be paid, and shall direct that in default of such payment within the period so prescribed the mortgaged property shall be sold, and the court may in such decree for sale give such directions as to the conduct and conditions of the sale (including the terms on which the plaintiff shall be allowed to purchase), and the person who shall conduct it, and as to the terms of the instrument of conveyance and the party or parties by whom it shall be executed, as it may think fit.

Interlocutory order in action for dissolution of partnership.

202 When the action is for the dissolution of a partnership, the court before making its decree may pass an order fixing the day on which the partnership shall stand dissolved, and directing such accounts to be taken and other acts to be done as it thinks fit.

Suit for account between principal and agent.

203 When the action is for an account of pecuniary transactions between principal and agent, and in all other actions not hereinbefore provided for, where it is necessary in order to ascertain the amount of money due to or from any party that an account should be taken, the court shall before making its decree pass an order directing such account to be taken as it thinks fit.

Decree or order postponing hearing.

204 When a decree or order made at the hearing of the action is such as to have the effect of postponing the further hearing and the final determination of the action, as for instance a decree for the taking of accounts, or an order for the issue of a commission to take evidence, or of a commission to divide by metes and bounds, it shall specify the time at which the further hearing of the action shall be proceeded with.

Parties entitled to certified copies of decree and judgment.

205 Upon being paid such fee as the court shall from time to time determine, the secretary or chief clerk of the court shall at all times furnish to any person applying for the same, and supplying the necessary stamp, copies of the proceedings in any action, or any part thereof, or upon such application and production of such stamp shall examine and certify to the correctness of any such copies made by such person.

Decree or copy to be primary evidence of decision.

206 The decree or such certified copy thereof shall constitute the sole primary evidence of the decision or order passed by the court.

Decrees must be decisive, and must not direct non-suit.

207 All decrees passed by the court shall, subject to appeal, when an appeal is allowed, be final between the parties; and no plaintiff shall hereafter be non-suited.

Explanation.—Every right of property, or to money, or to damages, or to relief of any kind which can be claimed, set up, or put in issue between the parties to an action upon the cause of action for which the action is brought, whether it be actually so claimed, set up, or put in issue or not in the action, becomes, on the passing of the final decree in the action, a *res adjudicata*, which cannot afterwards be made the subject of action for the same cause between the same parties.

CHAPTER XXI.

Of Costs.

Costs.

208 Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the action and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees and charges of advocates and proctors, charges of witnesses, and expenses of commissioners either in taking evidence or in local investigations, or in investigations into accounts; and all other expenses of procuring and adducing necessary evidence. Provided that no costs shall be recoverable for or on account of the appearance of any person (not being an advocate or proctor) on behalf of any party in cases in the courts of requests.

Court always to have power to give or reserve costs.

209 When disposing of any application or action under this Ordinance, whether of regular or of summary procedure, the court may, unless elsewhere in this Ordinance otherwise directed, give to either party the costs of such application or action, or may reserve the consideration of such costs for any future stage of the proceedings; any order for the payment of costs only is a decree for money within the provisions of section 194 as to payment by instalments.

By whom paid

210 The decree or order shall direct by whom the costs of each party are to be paid, and whether in whole or in what part or proportion.

Court may apportion.

211 The court shall have full power to give and apportion costs of every application and action in any manner it thinks fit, and the fact that the court has no jurisdiction to try the case is no bar to the exercise of such power:

Proviso.

Provided that if the court directs that the costs of any application or action shall not follow the event, the court shall state its reasons in writing.

Set-off of costs.

212 The court may direct that the costs payable to one party by another shall be set off against a sum which is admitted or is found in the action to be due from the former to the latter.

But such direction shall not affect the lien upon the amount decreed of any proctor in respect of the costs payable to him under the decree.

Court may give interest on costs.

213 The court may give interest on costs at any rate not exceeding nine per cent. per annum, and may direct that costs, with or without interest, be paid out of, or charged upon, the subject-matter of the action.

Costs to be taxed.

214 All bills of costs, whether between party and party or between proctor and client, shall be taxed by the registrar or secretary or chief clerk of the court, as the case may be, according to the rates specified in schedule III.; and if either party is dissatisfied with this taxation, the matter in dispute

shall be referred to the court for its decision, and the decision of the court in review of taxation of costs shall (except when it is the decision of the Supreme Court) be liable to an appeal to the Supreme Court.

Action for costs by proctor.

215 No proctor shall commence or maintain any action for the recovery of any fees, charges, or disbursements at law until the expiration of one month or more after he shall have delivered unto the party charged therewith, or left with him at his dwelling house or last known place of abode, a bill of such fees, charges, and disbursements subscribed by such proctor. And after such delivery or service thereof, either the proctor or party charged therewith may obtain an appointment from the taxing officer for the taxation thereof; and if either party shall fail to attend, and the taxing officer is satisfied that such party has received due notice of the appointment, the taxation shall proceed in his absence.

Proctor to bear costs of taxation in what case.

216 If more than one-sixth of the amount of any bill of costs is disallowed by the taxing officer, the proctor shall bear the expense of taxation.

CHAPTER XXII

Of Executions.

Classification of decrees.

217 A decree or order of court may command the person against whom it operates—

(*A*) To pay money;

(*B*) To deliver movable property;

(*C*) To yield up possession of immovable property;

(*D*) To grant, convey, or otherwise pass from himself any right to, or interest in, any property;

(*E*) To do any act not falling under any one of the foregoing heads;

or it may enjoin that person—

(*F*) Not to do a specified act, or to abstain from specified conduct or behaviour;

or it may, without affording any substantive relief or remedy—

(*G*) Declare a right or status.

And the method of procedure to be followed, when necessary, by the person party to the action in whose favour the decree or order is made, hereinafter called the decree-holder or judgment-creditor, in order to enforce satisfaction or execution of the decree in each case respectively by the person party to the action against whom the decree is made, hereinafter called the judgment-debtor, is that which is next hereinafter specified according to the above distinguishing heads.

(*A.*)—*Execution of Decrees to pay Money.*

Power of creditor to seize and sell debtor's property in satisfaction of decree for payment of money.

218 When the decree falls under head (*A*) and is unsatisfied, the judgment-creditor has the power to seize, and to sell or realize in money by the hands of the fiscal, except as hereinafter mentioned, all saleable property, movable or immovable, belonging to the judgment-debtor, or over which or the profits of which the judgment-debtor has a disposing power, which he may exercise for his own benefit, and whether the same be held by or in the name of the judgment-debtor or by another person in trust for him or on his behalf.

Proviso 1.

Provided that the following shall not be liable to such seizure or sale, namely :

Excepted property.

(*a*) The necessary wearing apparel, beds, and bedding of the judgment-debtor, or of his wife and children ;

(*b*) Tools, utensils, and implements of trade or business, and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed grain as may in the opinion of the court be necessary to enable him to earn his livelihood as such ;

(*c*) Professional instruments and library necessary for the carrying on of the judgment-debtor's profession or business to the value of five hundred rupees ;

(*d*) Books of accounts ;

(*e*) Mere rights to sue for damages ;

(*f*) Any right of personal service ;

(*g*) Stipends allowed to naval, military, and civil pensioners of Government and political pensions ;

(*h*) The salary of a public officer or servant ;

(*i*) The pay and allowances of persons to whom the articles of war apply ;

(*j*) The wages of labourers and domestic servants ;

(*k*) An expectancy ot succession by survivorship or other merely contingent or possible right of interest ;

(*l*) A right to future maintenance.

Explanation.—The particulars mentioned in clauses (*g*), (*h*), (*i*), and (*j*) are exempt from sequestration or sale, whether before or after they are actually payable.

Proviso 2.

Provided also that nothing in this section shall be deemed to affect "The Army Act, 1881," or any similar law for the time being in force.

Examination of judgment-debtor as to debts owing to him.

219 The party entitled to enforce any decree for the recovery or payment of money may apply to the court for an order that the debtor (or, in the case of a corporation, that any officer thereof) be orally examined before the court on oath or affirmation, as to whether any and what debts are owing to the debtor, and whether the debtor has any and what other property or means of satisfying the decree ; and

the court may thereon make an order for the attendance and examination on oath or affirmation of such debtor or of any other person whom it thinks necessary, and for the production by such debtor or person of any books or documents.

Application need not be supported by affidavit.

220 It shall not be necessary to support any such application by affidavits of the applicant's belief that any debts are owing to the debtor, or that he has any other property or means of satisfying the decree.

Costs.

221 The costs of any such application and of any proceedings arising thereout or incidental thereto shall be in the discretion of the court..

Execution of decree against legal representative of a deceased person.

222 If the decree is against a party as the legal representative of a deceased person, and is for money to be paid out of the property of the deceased, it may be executed by the attachment and sale of any such property in the hands or under the control of the party against whom the decree is made.

If no such property can be found, and the judgment-debtor fails to satisfy the court that he has duly applied such property of the deceased as is proved to have come into his possession, the decree may be executed against the judgment-debtor to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally.

Seizure and sale to be effected under order of court.

223 For the purpose of effecting the required seizure and sale in any case the fiscal must be put in motion by application for execution of decree to the court which made the decree sought to be enforced.

Application therefor.

224 The application for execution of the decree shall be in writing, signed by the applicant or his proctor, and shall contain the following particulars :

(*a*) The number of the action ;

(*b*) The names of the parties ;

(*c*) The date of the decree ;

(*d*) Whether any appeal has been preferred from the decree ;

(*e*) Whether any, and what adjustment of the matter in dispute has been made between the parties subsequently to the decree ;

(*f*) Whether any, and what previous applications have been made for execution of the decree, and with what result, including the dates and amounts of previous levies, if any ;

(*g*) The amount of the debt or compensation, with the interest, if any, due upon the decree, or other relief granted thereby ;

(*h*) The amount of costs, if any, awarded ;

(*i*) The name of the person against whom the enforcement of the decree is sought ;

(*j*) The mode in which the assistance of the court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property, or otherwise as the nature of the relief sought may require.

Court to satisfy itself as to conformity of application.

225 Upon the application for execution of the decree being made, the court shall satisfy itself by reference, if necessary, to the record of the action in which the decree or order sought to be executed was passed, that the application is substantially in conformity with the foregoing directions, and that the applicant is entitled to obtain execution of the decree or order which is the subject of the application. If the court is not satisfied in these respects it shall refuse to entertain the application, unless and until amended in the particulars in which the court considers it faulty and defective, and with the view to its being so amended the court shall point out these particulars to the applicant; provided that the court may make the requisite amendment then and there, if it is consented to by the applicant and is such as to admit of being conveniently so effected, and provided further that every such amendment shall be attested by the signature of the judge making it.

When application should be refused by the court

In the event of the court refusing to entertain the application, the order of refusal, stating the date both of the application and of the order, and the name of the applicant, and specifying the grounds of refusal, shall be endorsed on the application, and the same shall be filed of record in the action.

Writ of execution.

If the court is satisfied in the respects above indicated, it shall direct a writ of execution to issue to the fiscal in the form No. 43 given in the second schedule hereto.

Duties of fiscal thereunder.

226 Upon receiving the writ, the fiscal or his deputy, or other officer, shall within forty-eight hours after delivery to him of the same, if the debtor shall be a person residing within five miles of the office of the fiscal or deputy fiscal—or if residing beyond five miles, within an additional forty-eight hours for every five miles or part thereof—repair to his dwelling house or place of residence and there require him, if present, to pay the amount of the writ.

If by reason of the debtor's absence no demand for the payment is made, or, in the event of any such demand, when made, not being complied with, the fiscal shall forthwith proceed to seize and sell, or otherwise realize in money, such unclaimed property of the judgment-debtor as may be pointed out and surrendered to him for the purpose by the judgment-debtor, or in default thereof such property of the judgment-debtor as may be pointed out by the judgment-creditor, or such property as is specified in the writ according to the rules next hereinafter contained.

Provis.

Provided that when the debtor is out of the island, it shall not be necessary to require him to pay the amount of the writ before the execution is carried into effect.

Mode of Seizure.

227 If the property sought to be seized and sold or otherwise realized in satisfaction of the decree to be executed is movable property in the possession of the judgment-debtor, other than the property mentioned in the first proviso to section 218, the seizure shall be manual.

Seizure of movable property in possession of debtor to be manual.

The fiscal, deputy fiscal, or other officer may at his discretion permit the owner or possessor of the property or the writ-holder to take charge of the property until the time of sale, on giving security to the satisfaction of such officer that he will in the meantime safely and securely keep the same; or such officer may, upon the necessary expenses therefor being advanced or secured to him by the debtor or the writ-holder, keep the property in his own custody or in the custody of one of his subordinates, or cause the same to be removed to some fit place of security.

Disposal of property seized until sale.

If such security is not given or such expenses are not advanced or secured, the fiscal, deputy fiscal, or other officer shall make a special return thereof to the court, and shall not be responsible for the due custody of the property so seized.

The expenses of keeping the property in such custody or of removing the same when certified by the fiscal shall, if not paid by the debtor, be a first charge on the proceeds of the property seized or sequestered, provided that the court may, if it thinks fit, reduce the amount of expenses so certified as aforesaid.

Provided that when the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody will exceed its value, the fiscal may sell it at once.

Proviso as to perishable property.

228 If the property is a negotiable instrument not deposited in a court, nor in the custody of a public officer, the instrument shall be seized and brought into court and held subject to the further orders of the court.

As to attachment of negotiable instrument.

229 In the case of (*a*) a debt not secured by a negotiable instrument, (*b*) a share in the capital of any public company or corporation, (*c*) other movable property not in the possession of the judgment-debtor, except property deposited in, or in the custody of, any court, or in the custody of a public officer, the sequestration or seizure shall be made by a written notice signed by the fiscal, prohibiting—

Seizure of debts, shares, and movable property not in possession of debtor and not deposited in court to be by written notice of prohibition.

(*a*) In the case of debt, the creditor from recovering the debt, and the debtor from making payment thereof until the further order of the court from which the writ of execution authorizing the seizure issues;

(*b*) In the case of the share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(*c*) In the case of the other movable property except as aforesaid, the person in possession of the same from giving it over to the judgment-debtor.

A copy of such order shall be affixed to some conspicuous part of the court-house, and another copy of the same shall be delivered or sent by post, in the case of the debt to the debtor, in the case of the share to the proper officer of the company or corporation, and in the case of the other movable property (except as aforesaid) to the person in possession of the same.

Judgment-debtor's debtor may be summoned, or execution may issue against him.

230 A debtor prohibited under clause (*a*) of the last preceding section may, upon the *ex parte* application of the judgment-creditor, be summoned by the court to show cause, on a day fixed in the summons, why he should not pay to the judgment-creditor the debt due from him to the judgment-debtor, or so much thereof as may be sufficient to satisfy the judgment. If such debtor does not dispute the debt due or claimed to be due from him, and fails within such time as may be allowed him by the court to pay into court the amount due from him to the judgment-debtor, or an amount equal to the judgment, or if he does not appear upon summons, then the court may order execution to issue, and it may issue accordingly to levy the amount due from such debtor, or so much thereof as may be sufficient to satisfy the judgment.

The costs of any application and of any proceedings arising from, or incidental to, any such application as aforesaid shall be in the discretion of the court.

Payment by him to be a discharge as against judgment-debtor.

231 Payment made by, or execution levied upon, such debtor in manner provided in the last preceding section shall be a valid discharge to him as against the judgment-debtor to the amount paid or levied, although such proceeding may be set aside or the judgment in respect of which any payment or levy is made may be reversed.

Seizure of property deposited in any court.

232 If the property is deposited in, or is in the custody of, any court or public officer, the seizure shall be made by a notice to such court or officer, requesting that such property and any interest or dividend becoming payable thereon may be held subject to the further orders of the court from which the writ of execution authorizing the seizure issues:

Proviso as to question of title, or priority.

Provided that, if such property is deposited in, or is in the custody of, a court, any question of title or priority arising between the judgment-creditor and any other person, not being the judgment-debtor, claiming to be interested in such property by virtue of any assignment, attachment, or otherwise, shall be determined by such court.

Upon such notice being received by any court a memorandum thereof shall be made in the journal of the action in which, or to the credit of any party to which, the money is deposited, or is in the custody of the court.

Explanation.—Money in the hands of the government agent to the credit of an action, or to the credit of any party to an action, is, within the meaning of this section, money deposited in, or in the custody of, the court in which the action is.

Notice by fiscal.

233 The notice necessary to effect seizure under sections 229 and 232 may be signed and served by the fiscal under the authority of the writ of execution alone.

Seizure of a money decree in favour of judgment-debtor.

234 If the property is a decree for money passed in favour of the judgment-debtor by the court which passed the decree sought to be executed, the seizure shall be made by an order of the court directing the proceeds of the former decree to be applied in satisfaction of the latter decree.

If the property is a decree for money passed by any other court, the seizure shall be made by a notice in writing to such court signed by the secretary or clerk of the court which passed the decree sought to be executed, requesting the former court to stay the execution of its decree until such notice is cancelled by the court from which it was sent. The court receiving such notice shall stay execution accordingly, unless and until—

(*a*) The court which passed the decree sought to be executed cancels the notice; or

(*b*) The holder of the decree sought to be executed applies to the court receiving such notice to execute its own decree.

On receiving such application the court shall proceed to execute the decree and apply the proceeds in satisfaction of the decree sought to be executed.

Seizure of any other decrees.

235 In the case of all other decrees the seizure shall be made by an order of the court which passed the decree sought to be executed to the holder of the decree sought to be seized, prohibiting him from transferring or charging the same in any way, and when such decree has been passed by any other court, also by sending to such court a like notice in writing to abstain from executing the decree sought to be seized until such notice is cancelled by the court from which it was sent. Every court receiving such notice shall give effect to the same until it is so cancelled.

Alienation by debtor subsequent to seizure void as against claims enforceable under seizure.

236 When a seizure of any negotiable instrument, debt, share, money, decree, or any other movable property has been effected and made known in manner hereinbefore provided, any private alienation of the property seized, whether by sale, gift, mortgage, or otherwise, and any payment of the debt or dividend or delivery of the share to the judgment-debtor during the continuance of the seizure, shall be void as against all claims enforceable under the seizure.

Seizure of immovable property to be by written notice of prohibition.

237 If the property is immovable, the seizure shall be made by a notice signed by the fiscal prohibiting the judgment-debtor from transferring or charging the property in any way, and all persons from receiving the same from him by purchase, gift, or otherwise.

Publication of such notice.

The notice shall specify the parties to the action, the judgment-debtor, the dates of judgment and seizure, and the name, situation, and boundaries of the land seized, and shall be proclaimed at some place on or adjacent to such

property by beat of tom-tom or other customary mode, and a copy of the notice shall be affixed by the fiscal to a conspicuous part of the property and of the court-house and of the fiscal's office. Upon payment to the fiscal by the decree-holder of a fee of fifty cents, the fiscal shall forthwith transmit a copy of such notice to the registrar of lands of the district in which such land is situate, and such registrar shall within two weeks of the date of seizure register the particulars contained in such notice in a book to be by him kept for that purpose. In case the seizure is removed or the property seized is sold, and the fiscal grants a conveyance thereof to the purchaser under section 286, the fiscal shall, upon payment of a fee of fifty cents by any person at whose instance or for whose benefit such removal is made, or by the person in whose favour such conveyance is granted, certify such removal or sale to the registrar, who shall forthwith register such removal or sale in the same book, which shall be open to the inspection (upon written application on that behalf) of any person upon payment of a fee of twenty-five cents. But in no case shall the fiscal enter upon actual possession of the immovable property so seized, or receive the rents and profits thereof, unless expressly directed so to do by order made under chapter L.

Registration of seizures.

Alienation by debtor subsequent to seizure void as against claims enforceable under seizure.

238 When a seizure of immovable property has been effected and made known and registered as in the last preceding section provided, any private alienation of the property seized, whether by sale, gift, mortgage, lease, or otherwise, after the seizure and before the removal of the same or the sale and conveyance of the property by the fiscal, shall be void as against all claims enforceable under the seizure.

When seizure must be ordered to be withdrawn.

239 If the amount decreed with costs and all charges and expenses resulting from the seizure of any property is paid into court, or if satisfaction of the decree is otherwise made through the court, or if the decree is set aside or reversed, an order shall be issued, on the application of any person interested in the property, for the withdrawal of the seizure.

List to be made of property seized.

240 As soon as any property shall be seized by the fiscal, deputy fiscal, or other officer, a list of such property shall forthwith be made and signed by himself or the person seizing the same, and shall be given to the judgment-debtor and to any person claiming to be in possession of the property seized, and copies thereof shall be also deposited in the fiscal's office and annexed to the return to the writ.

Claims to Property Seized.

Claims to property seized to be reported by fiscal and investigated by court.

241 In the event of any claim being preferred to, or objection offered against the seizure or sale of, any immovable or movable property which may have been seized in execution of a decree or under any order passed before decree, as not liable to be sold, the fiscal or deputy fiscal shall, as soon as the same is preferred or offered, as the case may be, report the same to the court which passed such decree or order;

and the court shall thereupon proceed in a summary manner to investigate such claim or objection with the like power as regards the examination of the claimant or objector, and in all other respects as if he were a party to the action.

Provided always that when any such claim or objection is preferred or offered in the case of any property so seized outside the local limits of the jurisdiction of the court which passed the decree or order under which such seizure is made, such report shall be made to, and such investigation shall thereupon be held by, the court of the district or division within the local limits of which such seizure was made, and the proceedings on such report and investigation with the order thereon shall, at the expiry of the appealable time, if no appeal has been within that time taken therefrom, but if an appeal has been taken, immediately upon the receipt by such court of the judgment or order in appeal, be forwarded by such court to the court which passed the decree or order, and shall be and become part of the record in the action. Provided, further, that in every such case the court to which such report is made shall be nearer to the place of seizure than, and of co-ordinate jurisdiction with, the court which passed the decree or order. **Proviso**

242 The claim or objection shall be made at the earliest opportunity, and if the property to which the claim or objection applies shall have been advertised for sale, the sale may (if it appears to the court necessary) be postponed for the purpose of making the investigation mentioned in section 241. Provided that no such investigation shall be made if it appears to the court that the making of the claim or objection was designedly and unnecessarily delayed with a view to obstruct the ends of justice. **Claim to be made at earliest opportunity.** **Proviso.**

243 The claimant or objector must on such investigation adduce evidence to show that at the date of the seizure he had some interest in, or was possessed of, the property seized. **Claimant to adduce evidence**

244 If upon the said investigation the court is satisfied that, for the reason stated in the claim or objection, such property was not, when seized, in the possession of the judgment-debtor, or of some person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the judgment-debtor, at such time, it was so in his possession, not on his own account or as his own property, but on account of, or in trust for, some other person, or partly on his own account and partly on account of some other person, the court shall release the property wholly, or to such extent as it thinks fit, from seizure, and make such order as to payment of fees and charges already incurred by the fiscal as it may deem fit. **Discretion of court to release the property claimed ;**

245 If the court is satisfied that the property was, at the time it was seized, in possession of the judgment-debtor as his own property, and not on account of any other person, or was in the possession of some other person, in trust for him, or in the occupancy of a tenant or other person paying rent to him, the court shall disallow the claim. **or to disallow the claim.**

Court may continue seizure notwithstanding mortgage.

246 If the court is satisfied that the property is subject to a mortgage or lien in favour of some person not in possession, and thinks fit to continue the sequestration or seizure, it may do so subject to such mortgage or lien.

Action by party claiming right.

247 The party against whom an order under section 244, 245, or 246 is passed, may institute an action within fourteen days from the date of such order to establish the right which he claims to the property in dispute, or to have the said property declared liable to be sold in execution of the decree in his favour: subject to the result of such action, if any, the order shall be conclusive.

Punishment as well as damages may be awarded for groundless claim

248 Whenever it shall appear to a competent court, and be so found and declared in any judgment pronounced by it in any action instituted by or against any person claiming any property pointed out or seized in execution, that such claim is altogether groundless, and wilfully preferred only to defeat or delay the execution, every such claimant shall, in addition to his liability to pay costs and damages, be liable to a fine not exceeding fifty rupees, and such fine shall be recovered as a fine imposed by a court in a criminal case.

Seizure of partnership property for debt of partner, other partner may apply for release.

249 When a fiscal has seized property of a partnership, before or after its dissolution, upon a writ of execution against the interest therein of any partner made by virtue of an execution against his individual property, any other partner or former partner having an interest in the property may, at any time before the sale, apply to the court from which the writ of execution issued, upon an affidavit showing the facts, for an order directing the fiscal to release the property and to deliver it to the applicant.

Undertaking to be given by applicant.

250 Upon such an application the applicant must give an undertaking, with at least two sureties, approved by the judge, to the effect that he will account to the purchaser upon the sale to be made by virtue of the execution of the interest of the judgment-debtor in the property seized, in like manner as he would be bound to account to an assignee of such an interest; and that he will pay to the purchaser the balance which may be found due upon the accounting, not exceeding a sum specified in the undertaking, which must be not less than the value of the interest of the judgment-debtor in the property seized by the fiscal as fixed by the judge.

Undertaking, to whose benefit it

251 Where property of a partnership has been released upon an undertaking as prescribed in the last two sections, if the execution by virtue of which the levy was made is set aside or is satisfied without a sale of the interest levied upon, the undertaking enures to the benefit of each judgment-creditor of the same judgment-debtor then having an execution in the hands of the fiscal having authority to levy upon that interest, as if it had been given to obtain a release from a seizure made by virtue of such an execution.

Interest of judgment-debtor may be sold.

252 Where property of a partnership has been so released, the interest of the judgment-debtor therein may be sold by the fiscal, and the purchaser upon the sale acquires all that interest as if he was an assignee thereof.

Of the Sale and Disposition of the Property Seized.

(A) *Of Sales Generally.*

253 If the property seized is coin or currency notes the fiscal shall deal with it in the manner hereinafter directed in respect of money received by the fiscal on the sale of property sold at the execution sale.

Property seized, when money, to be dealt with as proceeds of sale.

254 When the property seized is a decree of court the judgment-creditor at whose instance the seizure is made shall be deemed the assignee thereof under assignment as of the date of the seizure, made by the person against whom he is executing the writ of execution, so far as that person's interest extends, and he may realize the decree in the manner hereinafter provided for the execution of a decree by an assignee thereof.

When it is a decree of court, to be realized by judgment-creditor as assignee thereof.

255 In the case of all other property seized by the fiscal he shall proceed to the sale thereof in the manner following :

In all other cases fiscal to sell.

I.—In all cases of movable property the fiscal or deputy fiscal shall cause notice of sale thereof to be given by beat of tom-tom or in such other manner as to secure publicity thereto, both at the place of sale and also where the seizure shall have been made, and such notice shall not be less than three days and not exceeding fourteen days before the day of sale, unless the time be enlarged by any order of court, and shall specify, as fairly and accurately as under the circumstances is reasonably practicable—

Notice of sale : I.—For movable property.

(*a*) The property to be sold ;
(*b*) The action in which, and
(*c*) The place, and
(*d*) Day, and
(*e*) Hour at which the sale is to take place ;
(*f*) The amount of money for the levy of which the writ issued.

II.—In all cases of immovable property, the like notice of sale shall be given as is hereinbefore required in sales of movable property, and the fiscal, deputy fiscal, or other officer shall also cause to be made four copies of the notice of sale in English and four in the native language prevailing within the district, one of each of which he shall cause to be posted at his office, at the court-house whence the execution issued, in some conspicuous part of the town or village in which the land is situate, and on some conspicuous spot on the property for sale, each of which publications shall be made ten days at the least before such sale takes place.

II.—For immovable property.

256 Whenever the property seized under one writ shall exceed the value of one thousand rupees, the fiscal, deputy fiscal, or other officer shall, in addition to the notice hereinbefore required, advertise the sale thereof, enumerating briefly the goods for sale, the nature and situation of the land, and the time and place of the sale, in the *Government Gazette ;* and no such sale shall take place until it shall have

Advertisement where property exceeds one thousand rupees in value.

been so advertised once at least twenty days prior to the sale. It shall be lawful to the execution-creditor or debtor to require the publication of such sale to be made in any newspaper to be named by him ; and all costs and charges attending such advertisements, particulars of which shall be always given by the fiscal with his return, shall be paid in advance by the party requiring such publication.

And in other cases at cost of party.

257 The fiscal, deputy fiscal, or other officer shall be also at liberty, at the request of both parties, or either of them, on payment to him by the applicant of all costs or expenses attending the publication, to advertise any sale of movable or immovable property in manner hereinbefore mentioned, although it does not exceed the value of one thousand rupees.

Proceedings at the sale

258 Every sale shall be held by an officer of the fiscal, or some other person duly authorized by the fiscal or deputy fiscal by writing under his hand. When the proceeds do not exceed the sum of seven thousand five hundred rupees, the fiscal or deputy fiscal shall recover a fee of three per cent. on the proceeds actually recovered on return thereof made to the court in respect of every sale and resale of movable property, and two per cent. on the proceeds of sale of immovable property belonging to the debtor. When the proceeds, whether of movable or immovable property, exceed that sum, the fiscal or deputy fiscal shall recover a fee of one hundred and fifty rupees, and of five rupees for every thousand rupees of the proceeds over and above the said sum of seven thousand five hundred rupees. And in every case after the seizure of property and publication of sale thereof, in which the sale shall be postponed or stayed at the request or with the concurrence of the party suing out the writ, the fiscal or deputy fiscal shall recover half of the above fees on the estimated value of such property from the party at whose instance the writ shall be stayed, and in default of immediate payment thereof the fiscal shall certify the amount of such fees to the court whence the execution issued. Provided, however, that such fee shall never exceed fifty rupees or the actual expenditure already incurred by the fiscal towards carrying out the sale, whichever sum shall be the largest. The fees recovered under this section shall be brought to account and appropriated in such manner as the Governor, with the advice of the Executive Council, shall from time to time direct.

Proviso.

Court may in certain cases postpone sale

259 If at any time prior to the sale of immovable property seized in execution the judgment-debtor can satisfy the court that there is reason to believe that the amount of the decree and of any unsatisfied judgment then in force against him may be raised by mortgage, or lease, or private sale of such property, or some part thereof, or of any other immovable property of the judgment-debtor, the court may on his application postpone the sale of such property for such period as it thinks proper to enable him to raise the amount, and shall make such order as to the payment of fees and charges due to the fiscal as it may deem fit.

In such case the court shall grant a certificate to the judgment-debtor, authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in section 238, to make the proposed mortgage, lease, or sale. Provided that all moneys payable under such mortgage, lease, or sale shall be paid into court and not to the judgment-debtor. Provided also that no mortgage, lease, or sale under this section shall become absolute until it has been confirmed by the court.

Deposit by purchaser.

260 On every sale of immovable property under this chapter the person declared to be the purchaser shall pay, immediately after such declaration, in every case where the price does not exceed one hundred rupees, the full amount of, but in every other case a deposit of twenty-five per cent. on the amount of his purchase money to the officer conducting the sale, and in default of such deposit, the property shall forthwith be put up again for sale.

Payment in full.

261 Where the price exceeds one hundred rupees the balance amount of the purchase money shall be paid by the purchaser on or before the thirtieth day after the sale of the property, or if the thirtieth day be a Sunday or public holiday, then on the first office day after the thirtieth day.

Default in payment, consequence of.

262 In default of payment within the period mentioned in the last preceding section, the deposit after defraying the expenses of the sale shall be forfeited to, and shall go in reduction of the claim of, the judgment-creditor, and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property and to any part of the sum for which it may subsequently be sold.

Fresh notification on resale.

263 Every resale of immovable property in default of payment of the purchase money within the period allowed for such payment shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale.

Bid by a co-sharer.

264 When the property sold in execution of a decree is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively advance the same sum at any bidding at such sale, such bidding shall be deemed to be the bidding of such co-sharer.

Fiscal may require payment of deposit.

265 The fiscal or other officer conducting any sale of immovable property under this chapter may, before accepting any bid at such sale, satisfy himself as to the *bona fides* of the bidder, and his ability to pay down the amount of deposit required: and in the event of his not being so satisfied may refuse to accept any such bid, and shall continue the sale as if no such bid had been made.

Deficiency on such resale to be paid by first purchaser on fiscal's certificate.

266 The second sale, taking place in consequence of such non-payment of balance of purchase money, shall be made in the manner hereinbefore prescribed for the first sale, and if the amount of the purchase money for which the property is sold at such second sale shall fall short of the amount for which the first sale was concluded, then the first

purchaser and his sureties, if any, shall be held liable to pay the fiscal the amount of this difference, and the fiscal on non-payment thereof by such purchaser and his sureties within one week after demand made by him upon them respectively in writing, shall certify the amount of the said difference to the court whence the execution issued. And the like course shall be observed in respect of any subsequent sale rendered necessary by failure in payment of the purchase amount.

On highest bidder not making deposit, next highest may be declared purchaser; difference to be paid by highest bidder on fiscal's certificate.

267 If at the sale of immovable property the highest bidder on being declared the purchaser shall not forthwith pay down the amount of deposit required. and give good and sufficient security to the satisfaction of the fiscal, deputy fiscal, or other officer for the payment of the residue, the next highest bidder may be thereupon declared the purchaser, and required to make such deposit and security as aforesaid; and in the same manner the other bidders in rotation; and each person failing to make such deposit and to give security as aforesaid may be held liable to pay the difference between the amount of his offer and the sum finally settled at the sale, and the fiscal, on non-payment thereof by such persons respectively within one week after demand made by him upon them in writing, shall certify the amount of the said difference in each case to the court whence the execution issued. Provided, however, that in case of default of the highest bidder, instead of declaring the next highest bidder purchaser, the officer holding the sale may forthwith put up the property for sale anew, or adjourn the sale, in which latter case the property shall again be advertised as before.

Forfeiture of deposit.

268 If the price for which the property is finally sold at the second or any subsequent sale is not less than that of the first sale, then the money deposited by the purchaser at the first and other sales which preceded the final sale shall be paid to the execution-creditor in satisfaction *pro tanto* of the judgment; and in the event of such judgment being so satisfied, and any surplus remaining, such surplus shall, after deducting any expenses consequent on the sale, be paid to the judgment-debtor.

Differences realized to augment the purchase money.

269 The differences between the biddings of any persons failing to make the deposit and give the security required by section 267 and the sum finally settled at any such sale and between the amount of the final sale and those of previous sales shall, when realized, be paid by the fiscal into the government agent's or assistant government agent's office in augmentation of the purchase money of the final sale.

The amounts of fiscal's certificates to be recovered as by execution of decree.

270 The amount certified by the fiscal to be payable to him for half fees under the provisions of section 258 and the amounts of the differences certified by the fiscal and directed to be reported to the court by sections 266 and 267 shall, in the case of such half fees at the instance of the fiscal and in the case of such differences respectively at the instance either of the fiscal, or of the judgment-creditor, or of the

judgment-debtor, be recoverable from the persons declared in those sections to be liable to pay the same, in the same way as if the certificate were a decree for money passed by the court to which it is returned against those persons ; and the cost (to be fixed by the court) of any notice, publication, or proclamation required under any of the provisions of this Ordinance to be given or made by the fiscal by beat of tom-tom or in any other manner whatsoever, shall in every instance, where provision for the payment thereof is not otherwise specially made, be prepaid by the person at whose instance or in whose interest the same is required.

Costs of notice, publication, or proclamation.

271 No officer having any duty to perform in connection with any sale under this chapter shall either by himself or another bid for, acquire, or attempt to acquire any interest in any property sold at such sale.

No officer conducting sale to bid.

272 A holder of a decree in execution of which property is sold may, with the previous sanction of and subject to such terms as to credit being given him by the fiscal and otherwise as may be imposed by the court, bid for or purchase the property.

Holder of decree may bid or purchase.

When a decree-holder purchases, the purchase money and the amount due on the decree may, if the court thinks fit, be set off against one another, and the court in execution of whose decree the sale is made may enter up satisfaction of the decree in whole or in part accordingly.

And purchase money may be set off against decree.

273 In all cases the sale of immovable property shall be conducted on the spot, unless the court shall otherwise direct, or unless on application in writing to the fiscal or his deputy the parties shall consent to its being conducted elsewhere.

Place of sale of immovable property.

(B) *Sales of Movable Property.*

274 If the property to be sold is a negotiable instrument or a share in any public company or corporation, the court may direct the fiscal, instead of selling it by public auction, to make the sale of such instrument or share through a broker at the market rate of the day.

Sale of a share in any public company.

275 In the case of other movable property, the price shall be paid at the time of sale, and in default of payment the property shall forthwith be again put up for sale.

Of other movable property.

On payment of the purchase money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

276 No irregularity in publishing or conducting the sale of movable property shall vitiate the sale unless substantial damage has been caused to the person impeaching the sale thereby.

What may vitiate sale.

277 When the property sold is a negotiable instrument or other movable property of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery to purchaser.

Delivery where third party is in possession.

278 When the property sold is any movable property to which the judgment-debtor is entitled, subject to a right of possession of some other person, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser.

Delivery of unsecured debt or share.

279 When the property sold is a debt not secured by a negotiable instrument, or is a share in any public company or corporation, the assignment thereof shall be made by a certificate of sale in favour of the purchaser signed by the fiscal, who shall forthwith, by a written notice, prohibit the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the manager, secretary, or other proper officer of the company from permitting any such transfer or making any such payment to any person except the purchaser.

Endorsement of negotiable instrument or share

280 If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any public company or corporation is standing, is required to transfer such instrument or share, the judge may endorse the instrument or the certificate of the share, or may execute such other document as may be necessary.

The endorsement or execution shall be in the following form or to the like effect :

"*A. B.* by *C. D.*, judge of the district court of —— (*or as the case may be*), in an action by *E. F.* against *A. B.*"

Until the transfer of such instrument or share the court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same ; and any endorsement made, or document executed, or receipt signed as aforesaid, shall be as valid and effectual for all purposes as if the same had been made, or executed, or signed by the party himself.

Power of court to make vesting order.

281 In the case of any movable property not hereinbefore provided for, the court may make an order and execute such document as may be necessary vesting such property in the purchaser, or as he may direct ; and such property shall vest accordingly.

(C) *Sales of Immovable Property.*

Sale not absolute until after thirty days and confirmation by court ;

282 The fiscal shall report to the court every sale of immovable property made by him or under his direction within ten days after the same shall have been made. And no sale of immovable property shall become absolute until thirty days have elapsed subsequent to the receipt of such report, and until such sale has been confirmed by the court.

The decree-holder, or any person whose immovable property has been sold under this chapter, or any person establishing to the satisfaction of the court an interest in such property may apply by petition to the court to set aside the sale on the ground of a material irregularity in publishing or conducting it; but no sale shall be set aside on the ground of irregularity unless the applicant proves to the satisfaction of the court that he has sustained substantial injury by reason of such irregularity, and unless the grounds of the irregularity shall have been notified to the court within thirty days of the receipt of the fiscal's report.

and may be set aside for material irregularity.

In every such application the purchaser shall be made respondent to the petition.

283 If no such application as is mentioned in the last preceding section is made within the thirty days, or if such application is made and the objection disallowed, the court shall at any time after the expiration of the thirty days, on the application of the decree-holder or of the purchaser, pass an order confirming the sale as regards the parties to the suit and the purchaser. Provided that no order confirming the sale shall be made if it appear to the court that the judgment-debt was satisfied at the time that the writ of execution issued.

Order confirming the sale.

Proviso.

If such application is made, and if the objection is allowed, the court shall pass an order setting aside the sale.

Order setting aside the sale.

284 The purchaser at any such sale may apply to the court by petition on summary procedure to set aside the sale, on the ground that the person whose property purported to be sold had no saleable interest therein, and the court may, on such application, make such order as it thinks fit; provided that both the judgment-debtor and the decree-holder are made respondents to the petition.

When purchaser may apply to set aside sale,

285 When a sale of immovable property is set aside under sections 282, 283, or 284, when it is found that the judgment-debtor had no saleable interest in the property which purported to be sold, and the purchaser is for that reason deprived of it, the purchaser shall be entitled to receive back his purchase money from any person to whom the purchase money has been paid.

and get back his purchase money.

An order for the repayment of the said purchase money may be made by the court on any application under sections 282, 283, or 284, provided that the person against whom the order is directed is party thereto, and such order may be enforced against such person under the rules provided by this Ordinance for the execution of a decree for money.

286 If the court shall have confirmed the sale, and the purchaser shall have paid the full amount of the purchase money according to the conditions of sale, and shall have supplied the fiscal or deputy fiscal with stamps of the proper amount required by law for the conveyance of the land sold to him (which stamps he shall be bound to supply when he pays the purchase money in full), and if the sale was not effected in execution of a decree specifically directing the

Conveyance to purchaser;

sale, then the fiscal or deputy fiscal shall forthwith make out and execute a conveyance in duplicate of the property according to the form No. 56 in the second schedule hereunto annexed, or such other form, or expressed in such terms, as the court may deem expedient, which conveyance shall be binding and of force though not executed before a notary public. The fiscal or deputy fiscal shall deliver the original to the purchaser and transmit the duplicate to the registrar of lands for the district in which the land is situate, in like manner as now is or shall be required to be done by notaries in respect of deeds executed before them; and the fiscal or deputy fiscal shall be entitled to recover for such conveyance, when the amount of purchase shall be under thirty rupees, a fee of fifty cents; when it shall exceed thirty rupees, a fee of one rupee; when it shall exceed one hundred rupees, a fee of one rupee and fifty cents; when it shall exceed two hundred rupees, a fee of two rupees and fifty cents; and when it shall exceed five hundred rupees, a fee of three rupees and seventy-five cents, and no more; and such fee shall be brought to account and appropriated in such manner as the Governor shall direct.

But if the sale was effected in execution of a decree specifically directing the sale, then the conveyance shall be made in conformity with the directions of the court contained in the decree.

to contain sufficient map of the premises.

Provided, however, that to all conveyances made by the fiscal to complete a sale effected in execution of a decree of court, in the event of there being no diagram or map of the premises which are the subject of the conveyance already appended to a title deed thereof delivered to the purchaser, there shall be annexed a sufficient map exhibiting, when possible, some permanent physical feature of the ground; and the purchaser shall pay in advance the expense of preparing it in addition to the fee prescribed for the conveyance. Such diagram or map shall be prepared by a competent surveyor licensed by the fiscal for that purpose, and such surveyor shall be an officer of the fiscal within the meaning of section 325.

Court may order delivery of possession to purchaser.

287 When the property sold is in the occupancy of the judgment-debtor or of some person on his behalf, or of some person claiming under a title created by the judgment-debtor subsequently to the seizure of such property, and a conveyance in respect thereof has been made to the purchaser under section 286, the court shall, on application by the purchaser, order delivery to be made by putting the purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person bound by the decree who refuses to vacate the same.

Order how to be enforced.

An order for delivery of possession made under this section may be enforced as an order falling under head (*C*) section 217, the purchaser being considered as judgment-creditor.

Mode of delivery where property is in occupancy of person entitled to occupy.

288 When the property sold is in the occupancy of a tenant or other person entitled to occupy the same, and a conveyance in respect thereof has been made to the purchaser under section 286, the court shall order delivery thereof to be made by affixing a notice of the sale having taken place, both in English and in the native language or languages prevailing within the district, in some conspicuous place on the property, and proclaiming to the occupant by beat of tom-tom, or in such other mode as may be customary, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser, and the cost (to be fixed by the court) of such proclamation shall in every case be prepaid by the purchaser.

Right and title of judgment-debtor not divested by sale till confirmation and execution of fiscal's conveyance

289 The right and title of the judgment-debtor or of any person holding under him or deriving title through him to immovable property sold by virtue of an execution is not divested by the sale until the confirmation of the sale by the court and the execution of the fiscal's conveyance. But if the sale is confirmed by the court and the conveyance is executed in pursuance of the sale, the grantee in the conveyance is deemed to have been vested with the legal estate from the time of the sale.

Fiscal may enter.

290 The fiscal, on the day of the sale, or at any time thereafter until the confirmation of the sale by the court and the execution of the fiscal's conveyance, may at his discretion, and if provided with the necessary funds therefor by the purchaser or by the judgment-creditor, or debtor, himself or by his agent duly authorized in writing enter into possession of the immovable property sold by virtue of the execution, and retain possession of the same until the confirmation of the sale by the court and the execution of the conveyance in pursuance thereof.

Person in possession may use and enjoy until confirmation

291 The person in possession of immovable property sold by virtue of an execution may, until the confirmation of the sale by the court and the execution of the fiscal's conveyance, use and enjoy the same as follows, without being chargeable with committing waste:

(1) He may use it and enjoy it in like manner and for the like purposes as it was used and enjoyed before the sale, doing no permanent injury to the property.

(2) He may make the necessary repairs to a building or other erection thereupon. But this provision does not permit an alteration in the form or structure of the building or other erection.

(3) He may use and improve the land in the ordinary course of husbandry, and may collect, gather, harvest, and store the crops and produce thereof, but shall not be entitled to them.

(4) He may apply any wood or timber on the land to the necessary reparation of a fence, building, or other erection which was thereupon at the time of the sale.

On confirmation and execution of conveyance, fiscal to deliver possession to grantee.

292 On the sale being confirmed by the court and the conveyance executed in pursuance of the sale, the fiscal or person in possession of the immovable property sold shall forthwith give possession of the same, together with all the crops and produce (if any) collected, gathered, harvested, and stored subsequent to the sale, to the grantee in the conveyance ; and if the sale is not confirmed, the fiscal or his agent shall forthwith, if in possession, restore the judgment-debtor or any person holding under him to possession of the immovable property together with all the crops and produce (if any) collected, gathered, harvested, and stored whilst the fiscal or his agent was in possession.

Judgment-debtor may be restrained from waste.

293 If at any time before the execution of the fiscal's conveyance the judgment-debtor, or any other person in possession of the property sold, commits, or threatens to commit, or makes preparations for committing waste thereupon, the court from which execution issued may, upon the application of the purchaser or his agent or attorney, and proof by affidavit of the facts, grant, without notice, an order restraining the wrongdoer from committing waste upon the property.

Punishment for committing waste.

294 If the person against whom such an order is granted commits waste in violation thereof after the service upon him of the order, the court, upon proof by affidavit of the facts, may grant an order requiring him to show cause at a time and place therein specified why he should not be punished for a contempt.

And for disobeying order.

295 If upon the return of the order to show cause it satisfactorily appears that the person required to show cause has violated the former order, the court may punish him in manner provided by law for the punishment of contempts of court.

Moneys paid to, and realized by, the Fiscal.

Payments to fiscals, and by fiscals' officers, how to be made.

296 Payments to fiscals, and by fiscals' officers, shall be made in manner and subject to the rules following, and not otherwise :

(1) Whenever any person, whether the original debtor or a purchaser of property sold in execution, shall (except as in clause (3) hereinafter provided) have occasion to pay money to the fiscal or deputy fiscal, he shall signify the same to such fiscal or deputy fiscal, who shall give him a note addressed to the government agent or assistant government agent of the form No. 58 in the second schedule hereto annexed, which the person who is to pay the money shall carry to the office of such government agent or assistant government agent, and deliver to the shroff or receiver of the office, and pay to him the amount stated in such note.

(2) The receipt shall then be acknowledged by the signature of the government agent or assistant

government agent on that part of the note reserved for that purpose, which shall be cut off and delivered to the person who shall have made the payment, the remaining part being reserved as the authority for receiving the money.

(3) In cases of payment of ready money, whether under the provisions of section 275 or otherwise, or a partial payment for immovable property under the provisions of section 260, the fiscal or deputy fiscal shall give a receipt accordingly; the stamps for such receipt to be furnished by the purchaser.

(4) The fiscal's officers shall make payment of all deposits and ready money received by them, within such time after the receipt thereof as the fiscal shall prescribe, to the office of the government agent or assistant government agent, being furnished for that purpose with a note of the said form in the second schedule hereto.

(5) A register of such notes in the form No. 59 in the said schedule, or in any other form as the Governor may from time to time prescribe, shall be kept by the fiscal, liable to the call of Government at any period.

(6) In every case in which a payment shall have been made under sub-section (1) or (4) the government agent or the assistant government agent shall within forty-eight hours forward a receipt for such payment to the fiscal or deputy fiscal.

Moneys paid into government agent's office to be subject to order of court.

297 All moneys which may be paid into the office of any government agent or assistant government agent shall be retained until disposed of by order of the court whence the process of execution shall have issued: Provided always that nothing herein contained shall be constructed to affect the powers vested by law in the Commissioners of the Loan Board.

Arrest and Imprisonment.

When debtor may be arrested in execution.

298 If the fiscal return to the writ of execution that he is unable to find any property of the judgment-debtor, movable or immovable, or if before the return to the writ of execution is made the court is satisfied on the application of the judgment-creditor made by petition, to which the judgment-debtor need not be named respondent, that the judgment-debtor—

(*a*) Has not pointed out to the fiscal any property for seizure and sale, although requested so to do; or

(*b*) Has not, after reasonable efforts made for the purpose, been found by the fiscal, and the judgment-creditor does not know of any property of the judgment-debtor which can be seized in execution; or

(*c*) With intent to obstruct or delay the execution of the decree, is about to abscond or to leave the jurisdiction

of the court, or with the like intent has disposed of or removed his property or any part thereof from the reach of the fiscal; or

(*d*) Is about to leave the island under circumstances affording reasonable probability that the judgment-creditor will thereby be obstructed or delayed in the execution of the decree;

the court may issue a warrant for the arrest of the judgment-debtor, but in no case whatever shall the court issue a warrant under this Ordinance for the arrest or imprisonment of a woman in execution of a decree for money.

Arrest under warrant.

Under the warrant so issued the judgment-debtor may be arrested at any hour, and on any day, and in any place, subject to the provisions hereinafter in section 365 contained, and shall thereupon, as soon as practicable, be brought before the court. Provided that no house shall be entered after sunset and before sunrise for the purpose of making an arrest under this section. Provided also that when the judgment-debtor pays the amount of the decree or order in execution of which he is arrested, and the costs of the arrest, to the officer arresting him, such officer shall at once release him.

Proviso 1.

Proviso 2

No arrest for sum under two hundred rupees.

299 Notwithstanding anything in the last foregoing section, no warrant for the arrest of a judgment-debtor shall, except as in this section otherwise provided, issue in execution of a decree wherein the sum awarded, inclusive of interest, if any, up to the date of the decree, but exclusive of any further interest and of costs, shall not amount to two hundred rupees or upwards.

Exception in case of fraud

If at any time it shall appear to the court before which any action shall be tried that the defendant in incurring the debt or liability which is the subject of such decree has obtained credit from the plaintiff under false pretences, or with a fraudulent intent, or has wilfully contracted such debt or liability without having at the time of so contracting the same a reasonable assurance of being able to pay or discharge the same, or has made or caused to be made any gift, delivery, or transfer of any property, or has removed or concealed any property with an intent to defraud his creditors or any of them, it shall be lawful for such court in its discretion in making such decree to order that such defendant be taken and detained in execution for any time not exceeding six months, and whether or not execution against the property of such defendant shall be issued in virtue of such decree.

Where debtor is unable to pay, court may order release.

300 When a judgment-debtor is brought before the court after being arrested in execution of a decree for money, and it appears to the court that the judgment-debtor is unable from poverty or other sufficient cause to pay the amount of the decree, or, if that amount is payable by instalments, the amount of any instalment thereof, the court may, upon such terms, if any, as it thinks fit, make an order directing his release.

301 Before making an order under section 300 the court may take into consideration any allegation of the decree-holder touching any of the following matters :

but may take certain matters into consideration :

(*a*) The decree being for a sum for which the judgment-debtor was bound as a trustee or as acting in any other fiduciary capacity to account ;

(*b*) The transfer, concealment, or removal by the judgment-debtor of any part of his property after the date of the institution of the action in which the decree was made, or the commission by him after that date of any other act of bad faith in relation to his property, with the object or effect of obstructing or delaying the decree-holder in the execution of the decree ;

(*c*) Any undue or unreasonable preference given by the judgment-debtor to any of his other creditors ;

(*d*) His refusal or neglect to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had, the means of paying it ;

(*e*) The likelihood of his absconding or leaving the jurisdiction of the court with the object or effect mentioned in sub-section (*b*).

302 While any of the matters mentioned in section 301 are being considered, the court may in its discretion order the judgment-debtor to be imprisoned, or release him on his furnishing sufficient security for his appearance on the requisition of the court.

and pending decision may imprison or release on security.

303 A judgment-debtor released under section 300 or 302 may be re-arrested.

Re-arrest.

304 If the court does not make such an order as is mentioned in section 300, it shall, subject to the other provisions of this Ordinance, commit the judgment-debtor to jail.

Committal.

305 Every warrant for the arrest of the judgment-debtor shall direct the officer entrusted with its execution to bring him before the court with all convenient speed, unless the amount which he has been ordered to pay, together with the interest thereon and the costs, if any, to which he is liable, be sooner paid.

On arrest, debtor to be brought before the court u[illegible] he pays.

Upon the judgment-debtor being brought before the court under such warrant of arrest, if he pays the amount of the decree and the costs of the arrest into court, or if he gives security for the payment of the same to the satisfaction of the judgment-creditor, or if he satisfies the court as is next hereinafter provided, either that he has no seizable property or that he is ready and willing to point out all such saleable property as he possesses, for sale in satisfaction of the decree against him, then the court shall release him from arrest ; otherwise, the court shall commit him to jail in execution of the decree by warrant in the form No. 61 in the second schedule hereto annexed, or to the like effect.

Court, if he pays or gives security for debt, or on being satisfied that he has no property, to release him ; otherwise to commit him to jail.

Debtor in custody may at any time apply for discharge,

306 Any judgment-debtor arrested or imprisoned in execution of a decree for money may apply by petition in the way of summary procedure to the court which passed the decree for his discharge from custody, on the ground either that he has no property which can be sold in execution of the decree, or that he is ready and willing to point out all such saleable property as he possesses for sale in execution of the decree.

on sufficient affidavit.

307 The affidavit by which such petition is supported shall state :

(*a*) The facts of the petitioner's arrest, or imprisonment;

(*b*) The amount, kind, and particulars of his property, and the value of so much thereof as does not consist of money ;

(*c*) The situation and circumstances of the property ;

(*d*) The petitioner's willingness to enable the fiscal to seize it;

(*e*) The amount and particulars of all pecuniary claims against him ; and

(*f*) The names and residences of his creditors, so far as they are known to, or can be ascertained by, him.

Procedure thereon.

308 On any such application so supported being made, the court shall make an order thereon in the alternative (*b*) of section 377, provided the petitioner pays the cost of serving the order upon the judgment-creditor at whose instance he was arrested or imprisoned, and on the other judgment-creditors, if any, mentioned in the affidavit.

Court may commit, or release on security pending the hearing.

309 Where the applicant is under arrest and not yet committed to prison, the court may commit him to prison until the day appointed for the hearing of the petition, or until the day to which the hearing may be from time to time adjourned ; or release him on his furnishing sufficient security that he will appear when called upon.

Examination of petitioner.

310 On the day fixed for the hearing of the petition or on any subsequent day to which the court may have adjourned the hearing, the court shall, if all the parties are present, or if it is satisfied that notice of the day was duly served on the absent parties, examine the petitioner as to his then existing circumstances and his future means of paying the money due from him under the decree, and shall hear the judgment-creditor and other respondents in opposition to the applicant's discharge, and may, if it thinks fit, postpone the hearing to allow the respondents to adduce evidence.

When court may discharge petitioner.

311 If at such hearing the court is satisfied—

(*a*) That the statements in the affidavit are substantially true ;

(*b*) That the applicant has not, with intent to defraud his judgment-creditor, concealed, transferred, or removed any part of his property since the institution of the action in which the decree in the course of being executed was passed ; and

(*c*) That he has not committed any act of bad faith regarding the matter of his petition ;

it shall discharge the petitioner.

If, however, at such hearing the court is not satisfied that these three conditions are fulfilled, it shall commit the petitioner to prison, or shall refuse to discharge him from prison, as the case may be.

Effect of discharge.

312 A judgment-debtor who has been discharged from arrest or imprisonment in execution of a decree under the last preceding section shall not be again arrested in execution of the same decree.

Sufficient interim subsistence money to be deposited before arrest.

313 No judgment-debtor shall be arrested in execution of a decree unless and until the decree-holder pays into court such sum as the judge thinks sufficient for the subsistence of the judgment-debtor from the time of his arrest until he can be brought before the court, and, where the writ is to be executed in another district, such further sum as the judge thinks sufficient to cover the expenses of his transport to the court issuing the writ.

Subsistence allowance during imprisonment to be fixed on commitment.

314 And when a judgment-debtor is committed to jail in execution of a decree, the court shall fix for his subsistence such monthly allowance as he may be entitled to at rates to be fixed by order of Government from time to time, as occasion shall require.

Allowance to be paid monthly in advance.

315 The monthly allowance fixed by the court shall be supplied to the fiscal by the party on whose application the decree has been executed by monthly payments in advance before the first day of each month.

The first payment shall be made for such portion of the current month as remains unexpired before the judgment-debtor is committed to jail.

Subsistence money to be deemed costs.

316 Sums of money disbursed by the decree-holder for the subsistence of the judgment-debtor in jail shall be deemed to be costs in the action.

Proviso.

Provided that the judgment-debtor shall not be detained in jail or arrested on account of any sum so disbursed.

When debtor entitled to be discharged from jail.

317 The judgment-debtor shall be discharged from jail—

(*a*) On the decree being fully satisfied ; or

(*b*) At the request of the person on whose application he has been imprisoned ; or

(*c*) On such person omitting to pay the allowance as hereinbefore directed ; or

(*d*) If the judgment-debtor be declared an insolvent, and an order in insolvency is made by the district court protecting him from arrest; or

(*e*) When the term of his imprisonment as limited by section 318 is fulfilled.

Proviso 1.

Provided that in the first, second, third, and fourth cases mentioned in this section, the judgment-debtor shall not be discharged without the order of the court.

Proviso 2.

A judgment-debtor discharged under this section is not thereby discharged from his debt, but he cannot be re-arrested under the decree in execution of which he was imprisoned.

Limit of imprisonment.

318 No person shall be imprisoned in execution of a decree for a longer period than six months.

Endorsement on the warrant.

319 The fiscal shall endorse upon the warrant of arrest the day on and the manner in which it was executed, and if the latest day specified in the warrant for the return thereof has been exceeded, the reason of the delay; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the court.

(B)—Decrees for delivery of Movable Property.

Application for execution of decree for delivery of movable property, how to be made.

320 If the decree is for any specific movable or for any share in a specific movable, application to the court for execution of the decree by seizure and delivery may be made by the judgment-creditor in the manner and according to the rules prescribed for execution of decrees under head (*A*) so far as the same are applicable; and if the court on such application is satisfied that the judgment-creditor is entitled to obtain execution of the decree, it shall direct a writ of execution to issue to the fiscal in the form No. 62 in the second schedule.

Form of writ.

Fiscal to procure delivery thereunder.

321 Upon receiving the writ the fiscal or his officer shall as soon as reasonably may be repair to the dwelling house or place of residence of the judgment-debtor, and there showing him the writ shall demand delivery of the movable or, if practicable, the share thereof specified therein, and on his failing to comply with his demand, the fiscal or his officer shall, if possible, seize the said specific movable or share thereof, and deliver the same to the judgment-creditor or to the person authorized by him to receive it.

Procedure on default.

If the judgment-debtor fails to comply with the fiscal's demand, and if the fiscal is unable to obtain for the judgment-creditor delivery of the specific movable or share thereof mentioned in the writ, then the court upon being satisfied of these facts may, on application made to it by the judgment-creditor by petition, to which the judgment-debtor is made respondent, direct a writ of execution by seizure and sale of the judgment-debtor's property, or a warrant for the arrest of the judgment-debtor, or both, to issue to the fiscal.

Amount to be levied and manner of execution.

322 The amount of money directed to be levied in the writ of execution by seizure and sale issuing under the preceding section shall be the amount of pecuniary loss, as nearly as the court can estimate it, which is occasioned to the judgment-creditor by reason of the judgment-debtor's default in making delivery of the specific movable or share thereof according to the terms of the decree, and which the court shall award by way of compensation to the judgment-creditor by the order directing the writ to issue; and the

execution of this writ, and of the warrant of arrest issuing under the same section, shall be effected according and subject to the rules prescribed for the writ of execution and warrant of arrest issued for the enforcement of decrees falling under head (*A*).

(C)—Decrees for possession of Immovable Property.

Application for execution of decree for delivery of immovable property, how to be made.

323 If the decree or order is for the recovery of possession of immovable property or any share thereof by the judgment-creditor, or if it directs the judgment-debtor to yield or deliver up possession thereof to the judgment-creditor, application to the court for execution of the decree may be made by the judgment-creditor, in the manner, and according to the rules, prescribed for execution of decrees under head (*A*) so far as the same are applicable; and if the court on such application is satisfied that the judgment-creditor is entitled to obtain execution of the decree it shall direct a writ of execution to issue to the fiscal in the form No. 63 in the second schedule.

Form of writ.

Fiscal how to proceed thereunder.

324 Upon receiving the writ the fiscal or his officer shall as soon as reasonably may be repair to the ground, and there deliver over possession of the property described in the writ to the judgment-creditor or to some person appointed by him to receive delivery on his behalf, and if need be by removing any person bound by the decree who refuses to vacate the property; provided that as to so much of the property, if any, as is in the occupancy of a tenant or other person entitled to occupy the same as against the judgment-debtor, and not bound by the decree to relinquish such occupancy, the fiscal or his officer shall give delivery by affixing a copy of the writ in some conspicuous place on the property and proclaiming to the occupant by beat of tom-tom, or in such other mode as is customary, at some convenient place, the substance of the decree in regard to the property; and provided also that if the occupant can be found, a notice in writing containing the substance of such decree shall be served upon him, and in such case no proclamation need be made.

The cost (to be fixed by the court) of such proclamation shall in every case be prepaid by the judgment-creditor.

Resistance to execution of Proprietary Decrees.

Procedure in event of resistance to execution of writ or delivery of property.

325 If in the execution of a decree for the possession of property under heads (*B*) and (*C*) the officer charged with the execution of the writ is resisted or obstructed by any person, or if after the officer has delivered possession the judgment-creditor is hindered by any person in taking complete and effectual possession, the judgment-creditor may at any time within one month from the time of such resistance or obstruction complain thereof to the court by a petition in which the judgment-debtor and the person resisting and obstructing shall be named respondents, and which shall be dealt with by the court in accordance with the alternative (*b*) of section 377.

Punishment of person obstructing if acting on behalf of judgment-debtor.

326 On the hearing of the matter of the petition of complaint so made the court, if it is satisfied that the obstruction or resistance complained of was occasioned by the judgment-debtor or by some person at his instigation, may commit the judgment-debtor or such other person to jail for a term which may extend to thirty days, and direct the judgment-creditor to be put into possession of the property.

If resistance be made by *bonâ fide* claimant in possession, court to direct action and

to try and determine the

327 If the resistance or obstruction is found by the court to have been occasioned by any person other than the judgment-debtor claiming in good faith to be in possession of the property on his own account or on account of some person other than the judgment-debtor, the court shall direct the petition of complaint to be numbered and registered as a plaint in an action between the decree-holder as plaintiff and the claimant as defendant; and the court shall, without prejudice to any proceedings to which the claimant may be liable for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if an action for the property had been instituted by the decree-holder against the claimant; and shall pass such order as it thinks fit for executing or staying execution of the decree.

So too, if *bonâ fide* claimant be dispossessed in effecting the execution.

328 If any person other than the judgment-debtor is dispossessed of any property in execution of a decree, and such person disputes the right of the decree-holder to dispossess him of such property under the decree, on the ground that the property was *bonâ fide* in his possession on his own account or on account of some person other than the judgment-debtor, and that it was not comprised in the decree, or that, if it was comprised in the decree, he was not a party to the action in which the decree was passed, he may apply to the court by petition stating his grounds of dispute.

Procedure.

If after examining the applicant, it appears to the court that there is probable cause for making the application, the application shall be numbered and registered as a plaint in an action between the applicant as plaintiff and the decree-holder as defendant, and the court shall proceed to investigate the matter in dispute in the same manner and with the like power as if an action for the property had been instituted by the applicant against the decree-holder, and shall pass such order as it thinks fit for executing or staying execution of the decree or restoring the applicant to possession.

In hearing an application under this section, the court shall confine itself to the grounds of dispute above specified.

Nothing in this section or section 326 applies to a person to whom the judgment-debtor has transferred the property after the institution of the action in which the decree is made.

If the property which the judgment-creditor is obstructed or hindered in obtaining possession of is an undivided share of property, the court shall in the actions instituted under section 327 and this section cause all the shareholders to be made parties.

329 The final order passed under either of sections 327 and 328 shall be in the nature of, and shall have the same force as, a decree in a regular action, and shall be subject to the same conditions as to appeal or otherwise.

Effect of final order in these cases.

330 If it appears at the hearing of the judgment-creditor's complaint that the resistance or obstruction was occasioned by any person other than the judgment-debtor, not in occupation of the property sold but claiming a right thereto as proprietor, mortgagee, lessee, or under any other title, the court shall pass such order on the matter of the resistance or obstruction as it thinks fit.

Procedure where party resisting is not judgment-debtor and not in possession.

The party against whom such order is passed may within one month institute an action to establish the right which he claims to the present possession of the property, but subject to the result of such action, if any, the order shall be final.

(*D*)—*Decrees for Execution of Conveyance or Transfer of Property.*

331 If the decree is for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the judgment-debtor neglects or refuses to comply with the decree, the decree-holder may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and apply to the court by petition, not naming a respondent, to have the said draft served on the judgment-debtor.

Application for enforcement of decree for execution of any instrument, how to be made.

332 The court shall thereupon cause the draft and a copy of the petition to be served on the judgment-debtor in manner hereinbefore provided for serving a summons, together with a notice in writing stating that his objections, if any, thereto, shall be made within such time (mentioning it) as the court fixes in this behalf, and will come on before the court to be considered and determined on a day to be named in the notice for that purpose.

Service of the draft conveyance on judgment-debtor.

The decree-holder may also tender a duplicate of the draft to the court for execution, supplying a stamp of the proper amount if a stamp is required by law.

On proof of such service the court, or such officer as it appoints in this behalf, shall on the day appointed for the consideration of objections, if no objections are made, proceed to execute the duplicate so tendered, or may, if necessary, alter the same, so as to bring it into accordance with the terms of the decree, and execute the duplicate so altered.

But in the event of the judgment-debtor or any other party on that day objecting to the draft so served, provided the objections have been stated in writing and filed within the time fixed therefor, the court shall proceed to hear and determine such objections, and shall thereupon pass such order as it thinks fit, and execute, or alter and execute, the duplicate in accordance therewith.

Objections to draft.

333 The execution of a conveyance or the endorsement of a negotiable instrument by the court under the last preceding section may be in the following form: "*C. D.*, judge of the court of ——— (*as the case may be*), for *A. B.*, in an

Execution of the instrument by the court.

action by *E. F.* against *A. B.*," or in such other form as the Supreme Court may from time to time prescribe, and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same, and such conveyance shall be binding and of force though not executed before a notary public. And the court shall deliver the original of such conveyance to the decree holder, and shall transmit the duplicate to the registrar of lands for the district in which the land is situate, in like manner as now is or shall be required to be done by notaries in respect of deeds executed before them.

(E, F)—Mandatory and Restraining Decrees.

Application for enforcement of mandatory decrees, how to be made

334 When a decree or order, falling under either of the heads (*E*) or (*F*) has been passed, and the judgment-debtor has had an opportunity of obeying the decree or order, but has wilfully failed to obey it, application to the court for execution or enforcement of the decree or order may be made by the judgment-creditor by petition to which the judgment-debtor shall be made respondent; and which shall set out the damage, if any, caused to the judgment-creditor by the disobedience of the judgment-debtor to the decree or order. And if the court on the hearing of such application is satisfied that the judment-creditor is entitled to obtain execution or enforcement of the decree or order, it shall direct a writ of execution by seizure and sale of the judgment-debtor's property, or a warrant for the arrest of the judgment-debtor, or both, to issue to the fiscal.

Court may issue writ of execution by seizure and sale.

Amount to be levied under writ.

335 The amount of money directed to be levied on the writ of execution issuing under the preceding section shall be the amount of pecuniary loss, if any, as nearly as the court can estimate it, which is occasioned to the judgment-creditor by reason of the judgment-debtor's default in obeying the decree or order, and which the court shall award by way of compensation to the judgment-creditor by the order directing the writ to issue. And the execution of this writ and of the warrant of arrest issuing under the same section shall be effected according, and subject, to the rules prescribed for the writ of execution and warrant of arrest issued for the enforcement of decrees falling under head (*A*).

General Provisions.

Discretion of court to issue execution

336 The court may in its discretion refuse to issue execution at the same time against the person and property of the judgment-debtor in cases when the judgment-creditor is entitled to apply for both simultaneously.

When subsequent application may be made for execution of decree partly satisfied.

337 Where an application to execute a decree for the payment of money or delivery of other property has been made under this chapter and granted, no subsequent application to execute the same decree shall be granted unless the court is satisfied that on the last preceding application due diligence was used to procure complete satisfaction of the

decree, or that execution was stayed by the decree-holder at the request of the judgment-debtor. Also no such subsequent application shall be granted after the expiration of ten years from any of the following dates (namely):

(*a*) The date of the decree sought to be enforced, or of the decree, if any, on appeal affirming the same ; or

(*b*) Where the decree or any subsequent order directs the payment of money or the delivery of property to be made at a specified date,—the date of the default in making the payment or delivering the property in respect of which the applicant seeks to enforce the decree.

Nothing in this section shall prevent the court from granting an application for execution of a decree after the expiration of the said term of ten years, where the judgment-debtor has by fraud or force prevented the execution of the decree at some time within ten years immediately before the date of the application.

Application by one of several decree-holders for execution of the decree on behalf of the whole.

338 If a decree has been passed jointly in favour of more persons than one, any one or more of such persons, or his or their legal representatives, may apply for the execution of the whole decree for the benefit of them all, or, where any of them has died, for the benefit of the survivors and those claiming under the deceased. The application for this purpose shall be made by petition to which the co-decree-holders or their representatives as well as the judgment-debtor shall be respondents.

If the court sees sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it deems necessary for protecting the interests of the persons who have not joined in the application.

For the purposes of this chapter the term "legal representative" shall mean an executor or administrator, or in the case of an estate below the value of one thousand rupees, the next of kin who have adiated the inheritance. Provided, however, that in the event of any dispute arising as to who is the legal representative, the provisions of section 397 shall, *mutatis mutandis*, apply.

Application by assignee of a decree for execution thereof, how to be made.

339 If a decree is transferred by assignment in writing or by operation of law from the decree-holder to any other person, the transferee may apply for its execution by petition, to which all the parties to the action or their representatives shall be made respondents, to the court which passed it, and if on that application that court thinks fit, the transferee's name may be substituted for that of the transferor in the record of the decree, and the decree may be executed in the same manner and subject to the same conditions as if the application were made by such decree-holder.

Proviso 1.

Provided that where the decree has been transferred by operation of law, the transferor need not be made respondent to the petition.

Proviso 2.

Provided also that where a decree against several persons has been transferred to one of them, it shall not be executed against the others.

Proviso 3.

In the case where one decree of court is seized in execution of another decree, the judgment-creditor of this second decree is in the situation of assignee of the judgment-creditor of the decree which is seized, provided the latter person is identical with the judgment-debtor of the decree in execution of which the seizure is made.

Transferee bound by equities.

340 Every transferee of a decree shall hold the same subject to the equities (if any) which the judgment-debtor might have enforced against the original decree-holder.

Legal representative of deceased debtor, how made liable.

341 If the judgment-debtor dies before the decree has been fully executed, the holder of the decree may apply to the court which passed it, by petition, to which the legal representative of the deceased shall be made respondent, to execute the same against the legal representative of the deceased.

and extent of liability.

Such representative shall be liable only to the extent of the property of the deceased which has come to his hands and has not been duly disposed of; and for the purpose of ascertaining such liability, the court executing the decree may on the application of the decree-holder compel the said representative to produce such accounts as it thinks fit.

Fiscal may adjourn sale.

Proviso.

342 The fiscal may in his discretion adjourn a sale, provided that the date to which the sale is adjourned is published in the same manner as was the original notice of sale; and provided also that he report to the court in his return to the writ of execution, or sooner, the cause for which the adjournment was made.

Stay of proceedings and adjournment of sale by court

343 The court may for sufficient cause stay execution proceedings at any stage thereof, and make order for adjournment of a sale. The application to the court to stay proceedings shall be made by petition, to which all persons interested in the matter of the execution shall be made parties, and no such order shall be made until after payment of all fiscal's fees then due.

All questions arising in execution to be determined by order of court and not by separate action

344 All questions arising between the parties to the action in which the decree was passed, or their legal representatives, and relating to the execution of the decree, shall be determined by order of the court executing the decree, and not by separate action.

Procedure where there are cross decrees between the parties.

345 If cross decrees between the same parties for the payment of money be produced to the court, execution shall be taken out only by the party who holds a decree for the larger sum, and for so much only as remains after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum.

If the two sums be equal, satisfaction shall be entered up on both decrees.

Explanation 1.—The decrees contemplated by this section are decrees capable of execution at the same time and by the same court.

Explanation 2.—This section applies where either party is an assignee of one of the decrees and as well in respect of judgment-debts due by the original assignor as in respect of judgment-debts due by the assignee himself.

Explanation 3.—This section does not apply unless—

(*a*) The decree-holder in one of the actions in which the decrees have been made is the judgment-debtor in the other and each party fills the same character in both actions ; and

(*b*) The sums due under the decrees are definite and unconditional.

Illustrations.

(*a*) A holds a decree against B for one thousand rupees. B holds a decree against A for the payment of one thousand rupees in case A fails to deliver certain goods at a future day. B cannot treat his decree as a cross decree under this section.

(*b*) A and B, co-plaintiffs, obtain a decree for one thousand rupees against C ; and C obtains a decree for one thousand rupees against B. C cannot treat his decree as a cross decree under this section.

(*c*) A obtains a decree against B for one thousand rupees. C, who is a trustee for B, obtains a decree on behalf of B against A for one thousand rupees. B cannot treat C's decree as a cross decree under this section.

Procedure where parties recover different amounts under same decree.

346 When two parties are entitled under the same decree to recover from each other sums of different amounts, the party entitled to the smaller sum shall not take out execution against the other party ; but satisfaction for the smaller sum shall be entered on the decree.

When the amounts are equal, neither party shall take out execution, but satisfaction for each sum shall be entered on the decree.

Proceedings where one year has elapsed from date of decree.

347 In cases where there is no respondent named in the petition of application for execution, if more than one year has elapsed between the date of the decree and the application for its execution, the court shall cause the petition to be served on the judgment-debtor, and shall proceed thereon, as if he were originally named respondent therein. Provided that no such service shall be necessary if the application be made within one year from the date of any decree passed on appeal from the decree sought to be executed or from the date of the last order against the party, against whom execution is applied for, passed on any previous application for execution.

Proviso.

Execution against surety.

348 Whenever a person has before the passing of a decree in an original action become liable as surety for the performance of the same or of any part thereof, the decree may be executed against him to the extent to which he has rendered himself liable in the same manner as a decree may be executed against a judgment-debtor, upon application made by the judgment-creditor to the court for that purpose by a petition to which the person sought to be made liable as surety shall be named respondent.

Decree-holder to certify payment to the court.

349 If any money payable under a decree is paid out of court, or the decree is otherwise adjusted in whole or in part to the satisfaction of the decree-holder, he shall certify such payment or adjustment to the court whose duty it is to execute the decree. The judgment-debtor may also by petition inform the court of such payment or adjustment, and apply to the court to issue a notice to the decree-holder to show cause on a day to be fixed by the court why such payment or adjustment should not be recorded as certified. And if after due service of such notice the decree-holder fails to appear on the day fixed, or having appeared fails to show cause why the payment or adjustment should not be recorded as certified, the court shall record the same accordingly. No such payment or adjustment shall be recognized by any court unless it has been certified as aforesaid

How and to whom money paid into court may be paid out.

350 Money, which in the course of an action or in satisfaction of a decree or order has been paid into, and received by, the court to the separate account of a specified person, or which by an order of court has after receipt been carried to such separate account, may be paid out to the specified person on his *ex parte* application. But in all other cases money in court, whether realized in execution of a decree or not, shall only be paid out on notice to all the parties to the action, or such of them as are interested in the money. And if, before the proceeds of execution have been paid to the party in whose favour the execution issued, notice shall be given to the court of any claim to such proceeds by any other person or persons, the court shall before making any order for the payment of such proceeds cause notice to issue to all persons whose claims shall have been notified to the court, as well as to the parties to the action, that the court will on the day specified in the notice proceed to determine the respective rights of the persons claiming such proceeds or any part thereof (form No. 64, second schedule). And on such day or on some other day to which the court may for sufficient cause adjourn the hearing, the court shall proceed to hear and adjudicate upon the claims made, and make such order as the justice of the case may require; or the court may, if in its opinion any claims cannot be conveniently heard and adjudicated upon in the manner aforesaid, refer the parties to a separate action.

Where the same property is seized in execution of decrees of more courts than one.

351 Where property not in the custody of any court has been seized in execution of decrees of more courts than one, the court which shall receive or realize such property and shall determine any claim thereto and any objection to the seizure thereof shall be the court of highest grade, or, where there is no difference in grade between such courts, the court under whose decree the property was first seized.

Where several decree-holders are entitled to share rateably in proceeds of a

352 Whenever assets are realized by sale or otherwise in execution of a decree, and more persons than one have, prior to the realization, applied to the court by which such assets are held for execution of decrees for money against

the same judgment-debtor, and have not obtained satisfaction thereof, the assets, after deducting the costs of the realization, shall be divided rateably among all such persons.

sale of debtor's property.

Provided that, when any property is sold which is subject to a mortgage or charge, or for any other reason remains subject to a mortgage or charge notwithstanding the sale, the mortgagee or incumbrancer shall not as such be entitled to share in any proceeds arising from such sale.

Proviso.

If all or any portion of the money realized in execution of a decree is in the distribution made under the last preceding section paid to a person not entitled to receive the same, any person who is so entitled may sue such person to compel him to refund the money.

Share of such proceeds paid to wrong person may be recovered by action by person entitled.

353 Every order made by a court, in any action or proceeding between parties, for payment of money not being a fine, shall have the effect of a decree for the payment of money, and on default of payment according to its terms shall be enforceable upon the application of the party at whose instance it was made in like manner as a decree for money.

Order for payment of money enforced as a decree.

354 In the event of an order being made by the civil court under the provisions of this Ordinance for the payment of a fine, and in the event of the fine not being paid into court at the time appointed therefor by the order, the amount of the said fine shall be levied by the fiscal from the property of the person against whom the order was made; and the court shall forthwith, on the occurrence of the default, of its own motion issue its writ or precept to the fiscal for this purpose.

Fine imposed by civil court how to be levied.

CHAPTER XXIII.

Of Service of Process.

355 Writs or warrants to levy money or to take any person in arrest, or to detain any person in custody, or to deliver possession of property or for the sequestration of any property, shall usually be directed to the fiscal of the province or district in which the court issuing the writ or warrant is situate; but any such writ or warrant may be issued to any headman, constable, or officer of police empowered to act within such province or district. And where any such writ or warrant is issued by the Supreme Court, or by any court within the local limits of whose jurisdiction the party against whom it is issued does not actually and voluntarily reside, or carry on business, or personally work for gain, or is not possessed of property sufficient to satisfy the same, such writ or warrant shall be issued to the fiscal of any province or district within which such party does actually and voluntarily reside, or carry on business, or personally work for gain, or is possessed of such property.

Writs or warrants to be usually issued to the fiscal for execution.

and other processes for service.

356 All processes of court not being writs, or warrants directed to the fiscal or other person for execution, and all notices and orders required by this Ordinance to be given to, or served upon any person, shall unless the court otherwise directs be issued for service to the fiscal of the province or district in which the court issuing such processes, notices, or orders is situate under a precept of that court as is hereinbefore provided for the case of the summons to the defendant in an action. And the enactments of the sections of this Ordinance from section 59 to section 70, both inclusive, relative to the service of such summons shall apply, so far as is practicable, to the service of such processes, notices, and orders.

Fiscal to execute and serve processes of courts anywhere in the island.

357 It shall be the duty of every fiscal upon receiving any writ, or warrant, or precept directed to him by any court, by himself or by his officers, to execute such writ or warrant, and to serve every process, notice, or order conveyed to him under such precept according to the exigency of the writ, warrant, or precept.

Proceedings against fiscal for contempt, &c.

358 All proceedings for attachment, contempt, or otherwise against a fiscal or deputy fiscal for neglect or refusal to serve process or to comply with any order or direction of the court in connection therewith shall, where such fiscal or deputy fiscal is the fiscal or deputy fiscal of a district other than that of the court issuing such process, order, or direction, be referred by such court to the court possessing similar jurisdiction within the district of such fiscal or deputy fiscal, and shall be dealt with by the latter court as if such neglect or refusal related to its own process or orders.

Headman or constable to execute or serve processes in his own limits only.

359 It shall be the duty of every headman, constable, or officer of police, upon receiving any writ or warrant or precept directed to him by any court to execute such writ or warrant, and to serve every process, notice, or order conveyed to him under such precept according to the exigency of the writ, warrant, or precept in any place within the district or division in which such headman, constable, or officer is empowered to act.

Endorsement of process by fiscal.

360 It shall be competent to any fiscal to whom any writ, warrant, or precept has been directed under the foregoing sections, and to the fiscal's officer to whom the fiscal may have entrusted such writ, warrant, or precept for execution to endorse thereon the name of any headman, constable, or officer of police empowered to act within such fiscal's province or district, or the name of any other fiscal; and such endorsement shall operate—

(*a*) In the case of a headman, constable, or officer of police to constitute the person whose name is endorsed an officer of the fiscal for the purpose of executing such writ, or warrant, or precept;

(*b*) In the case of the fiscal, to impose upon the fiscal whose name is so endorsed the like duty of executing the endorsed writ, warrant, or precept as

he would be under, by virtue of section 357, if such writ, warrant, or precept were directed to him immediately by the court from which it issued.

Duty of every fiscal to assist.

361 Every fiscal and fiscal's officer shall within his province or district, and every headman, constable, or officer of police shall, within the local limits in which he is empowered to act, afford his aid and assistance to any one charged under the foregoing sections with the duty of executing any writ or warrant, or of serving any process, notice, or order of court.

Every writ or process to be valid for the whole island.

Protection of officer executing the same.

362 Every mandate, writ, warrant, precept, or other process issuing from the Supreme Court, or from any district court or court of requests shall have full force and validity in every place throughout the island ; and every person charged under the foregoing sections with the duty of executing any such process shall be protected thereby from civil liability for loss or damage caused by, or in the course of, or immediately consequential upon, the execution of such process by him, or in the case of the fiscal by his officers, except when the loss or damage for which the claim is made is attributable to any fraud, gross negligence, or gross irregularity of proceeding, or gross want of ordinary diligence or abuse of authority on the part of the person executing such process.

Proviso 1.

Provided that no action shall be maintainable against any person charged as aforesaid with the duty of executing any such process in respect to his execution thereof, unless previous notice in writing distinctly setting forth the grounds of such action shall have been given to him by or on behalf of the plaintiff one month at least before the commencement of such action, and unless such action shall be brought within nine months after the cause of action shall have arisen.

Proviso 2.

And provided further, that it shall be lawful for the person to whom such notice of action has been given at any time before the commencement of such action to tender amends to the party aggrieved, and if the same be refused to plead such tender, at the same time paying into court for the use of the plaintiff the amount so tendered, and if the court by its judgment in the action shall hold that the amount so tendered and paid into court is sufficient amends for the party aggrieved, the decree shall be passed in favour of the plaintiff for such amount, but he shall be condemned to pay all costs.

What acts not within last section.

363 The seizure or sale of property, which does not belong to the person whose property is authorized by a writ of levy to be seized and sold, shall not be deemed to be an act done by or in the course of, nor an immediate consequence of the execution of such writ within the meaning of the first paragraph of the last preceding section. But no person charged as aforesaid shall be liable in damages for any such seizure or sale, if the same shall be shown to have been effected under the *bonâ fide* belief that the property did belong to the person whose property is authorized to be seized or sold.

Form of precept.

364 Unless otherwise in this Ordinance enacted the precept of the court to the fiscal directing the service of any process, order, or notice, or other document, not amounting to a writ to levy money, or to take any person in arrest, or to detain any person in custody, or to deliver possession of property, shall be in the form 17 given in the schedule II. hereto.

When process may not be served.

365 Process in civil cases, whether at the suit of the Crown or individuals, shall not be served or executed between the period of sunset and sunrise ; nor on a Sunday, Good Friday, or Christmas day, nor on any minister of religion while performing his functions in any place of public worship, nor upon any individual of any congregation during the performance of public worship at any such place.

Outer door not to be forced.

366 The outer door of any dwelling house shall not be forced open in order to seize the person under civil process issued at the suit of a private individual, excepting such person shall have escaped or shall have been rescued after having been duly arrested.

In effecting seizure of movable property inner door may be opened.

367 If the person executing any process under this Ordinance, directing or authorizing seizure of movable property, has obtained entrance into a house or other building, he may unfasten and open the door of any room in which he has reason to believe any such property to be.

Person executing process always to have writ with him or copy.

368 The person employed in carrying into effect any process of execution against either person or property shall always have with him the writ, warrant, or mandate of execution, or a copy of the same authenticated by the fiscal or deputy fiscal, which shall, if required, be produced and shown to the party against whom, or against whose property, it is sought to be put in force.

Body of person to be arrested must be seized or touched.

369 In all civil cases where process of execution may issue against the person of a party, it shall be necessary, in order to constitute an arrest, that the body of the person to be arrested shall be actually seized or touched by the officer executing the process, unless such person express his acquiescence in the arrest without being so seized or touched.

Fiscal's return of writ or precept.

370 Every fiscal or deputy fiscal shall, on the receipt of any process, note thereon the day he received the same, and on the service or execution thereof the date and mode of such service or execution.

When the writ of execution or precept for service has been carried into effect, or on the day appointed in the writ or precept for the return thereof, whichever date shall first occur, the fiscal or deputy fiscal shall return the writ or precept to the court from which it issued with his report of what has been done under it.

Report to be accompanied by affidavit to be attached as an exhibit.

371 The report of the fiscal or deputy fiscal constituting his return to the writ of execution or to the precept for service of any process shall be fair written and shall state concisely the mode in which the process has been served, or the steps which have been taken to effect service : and

shall be accompanied by an affidavit made by the officer charged with the duty of executing the process, which affidavit shall set out the facts of the service effected, or of the endeavour made by the officer to effect the service. The process and the affidavit shall be attached to the report as exhibits, and shall be referred to therein by means of a distinguishing letter or other mark put upon them, each initialled and dated by the fiscal.

Power of fiscal or other person to administer oath therefor.

372 The fiscal or deputy fiscal, or other person specially appointed by the Governor in that behalf, is hereby authorized to administer the oath or affirmation which is requisite to the making of the affidavit in the last section mentioned. And every officer who makes a false statement of fact in any such affidavit commits (in addition to any offence of which under the provisions of the Ceylon Penal Code he may by so doing be guilty) an offence which is punishable as contempt of court.

PART II.

OF SUMMARY PROCEDURE.

CHAPTER XXIV.

Of Summary Procedure.

Summary procedure by petition.

373 Every application to the court, or action, of summary procedure shall be instituted upon a duly stamped written petition presented in open court by the applicant; or, in the court of requests, may be made orally by the applicant in person, whose statement then being reduced into writing by the court or by some officer specially deputed by the court for that purpose, shall, upon the requisite stamp being furnished and affixed on behalf of the applicant, if a stamp be necessary, be deemed and treated as a written petition.

Frame of petition.

374 The petition shall be distinctly written in the English language, upon good and suitable paper, and shall contain the following particulars:

(*a*) The name of the court and date of presenting the petition.

(*b*) The name, description, and place of abode of the petitioner or petitioners.

(*c*) The name, description, and place of abode of the respondent or respondents.

(*d*) A plain and concise statement of the facts constituting the ground of the application and its circumstances, and of the petitioner's right to make it. Such statement shall be set forth in duly numbered paragraphs.

(*e*) A prayer for the relief or order which the petitioner seeks.

If incidental to an action, petition to be entitled therein.

375 If the application is instituted in the course of, or as incidental to, a pending action, whether of regular or summary procedure, the petition shall be headed with a reference to its number in the court, and the names of the parties thereto, and shall be filed as part of the record of such action, and all proceedings taken and orders made on such petition shall be duly entered in the journal required to be kept by section 92.

Affidavits and exhibits to be attached to petition.

376 With the petition, and, so far as conveniently can be, attached thereto, shall be exhibited such affidavits, authenticated copy records, processes, or other documentary evidence as may be requisite to furnish *primâ facie* proof of the material facts set out or alleged in the petition, or the court may in its discretion permit or direct the petitioner to adduce oral evidence before the court for this purpose, which shall be taken down by the court in writing.

If grounds are sufficient, order may be *nisi*, or interlocutory.

377 If the court is satisfied on the evidence exhibited or adduced that the material facts of the petition are *primâ facie* established, and is of opinion that on the footing of these facts the petitioner is entitled to the remedy, or to the order in his favour, for which the petition prays, or any part thereof, then the court shall accordingly make either—

(*a*) An order *nisi*, conditioned to take effect in the event of the respondent not showing cause against it on a day appointed by the order for that purpose; or

(*b*) An interlocutory order appointing a day for the determination of the matter of the petition, and intimating that the respondent will be heard in opposition to the petition if he appears before the court for that purpose on the day so appointed.

Order as to costs.

378 In the alternative marked (*a*) the order *nisi* may comprise an order against the respondent, or any of the respondents, to pay the costs of the petitioner.

Frame of order.

Service on respondent.

379 In either of the alternatives (*a*) and (*b*) of section 377 the order made shall be put into writing, and shall contain a prefatory recital of the petition, and of the exhibits and other evidence adduced in support thereof. And a copy of the order together with a copy of the petition shall be served upon the respondent by the fiscal in the manner and subject to the rules hereinbefore prescribed for the service of the summons in a regular action.

If grounds are insufficient, petition to be refused

380 If the court is not satisfied on the evidence exhibited or adduced that the material facts of the petition are *primâ facie* established, or is of opinion that on the footing of those facts the petitioner is not entitled to the relief which he asks, then in either case the court shall refuse the petition.

Petition and order thereon to be filed

381 The petition with its exhibits, adduced evidence, and the order made thereon, shall be filed in court whether the order is in the alternative (*a*) or (*b*), section 377, or is an order refusing the petition.

Non-appearance of petitioner on day appointed.

382 If on the day appointed in an order made under section 377 for the determination of the matter of the petition, the petitioner does not appear before the court either in person or by proctor to support the petition, the court shall dismiss the petition, and shall have power to make such order for the payment of costs by the petitioner to the respondent as to the court shall seem just.

When court may make order *nisi* absolute.

383 If on such day the petitioner appears, and the respondent does not appear, and if the court is satisfied by the affidavit of the serving officer, stating the fact of the service, or by oral evidence, that the order has been duly served upon the respondent in time reasonably sufficient to enable him to appear, then, if the order is an order *nisi* made under (*a*) of section 377, the court shall make it absolute, and shall pass no other order adverse to the respondent; but otherwise it shall make such order within the prayer of the petition as it shall consider right on the facts proved. Provided, however, that in the latter case the court shall make no order to pay costs against the respondent, except in cases where the prayer of the petition expressly asks for the costs of the application, and the court thinks it fit that the respondent should pay them. Nothing in this section shall prevent the court from dismissing the petition at this stage in the absence of the respondent, if it sees reason to think that the order ought not to have issued in the first instance.

Proviso.

Proceedings where both parties appear.

384 If on such day both the petitioner and the respondent appear, the proceedings on the matter of the petition shall commence by the respondent in person, or by his proctor, stating his objections, if any, to the petitioner's application; and the respondent shall then be entitled to read such affidavits or other documentary evidence as may be admissible, or by leave of the court to adduce oral evidence in support of his objections, or to rebut and refute the evidence of the petitioner, provided that no affidavit or other documentary evidence shall be so read without express leave of court, unless a copy of the document shall have been served on the petitioner or his proctor at least forty-eight hours before the day when the matter of the petition comes on to be heard and determined; and the oral evidence shall be taken down in writing by the judge.

Proviso.

Right to reply.

385 In the event of the respondent stating objections to the application, and not otherwise, and after the respondent's evidence, if any, shall have been read or given, the petitioner shall be entitled by way of reply to comment upon the respondent's case.

Additional evidence when admitted.

386 When the respondent's evidence has been taken, it shall be competent to the court, on the request of the petitioner, to adjourn the matter to enable the petitioner to adduce additional evidence; or, if it thinks necessary, it may frame issues of fact between the petitioner and respondent, and adjourn the matter for the trial of these issues by

oral testimony. And on the day to which the matter is so adjourned, the additional evidence shall be adduced, and the issues tried in conformity with, as nearly as may be, the rules hereinbefore prescribed for the taking of evidence at the trial of a regular action.

Final order.

387 The court after the evidence has been duly taken and the petitioner and respondent have been heard either in person or by their respective proctors or recognized agents, shall pronounce its final order in the matter of the petition in open court, either at once or on some future day, of which notice shall be given in open court at the termination of the trial.

Endorsement on order *nisi*.

388 The final order so pronounced may be endorsed on the order *nisi* or on the interlocutory order, as the case may be.

In the case of the order *nisi*, the final order, if endorsed, will be simpliciter either in the shape of "order discharged" or of "order made absolute." Provided that an order *nisi*, if it consists of separable parts, may be discharged in part and made absolute in part; and nothing herein enacted shall prevent any order being made by consent of the petitioner and respondent on the footing of the order *nisi*.

Proviso.

In the case of the interlocutory order, the court may make such order within the prayer of the petition as it shall consider right on the facts proved, and it may make any such order upon the petitioner and respondent for the payment of costs as to the court shall seem just.

Final order made on non-appearance of respondent, not appealable, but may be set aside.

389 No appeal by a respondent shall lie against any final order which has been made, in the case of the respondent's non-appearance, on the footing of either an order *nisi*, or an interlocutory order in the matter of a petition; but it shall be competent to the court, within a reasonable time after the passing of such order, to entertain an application in the way of summary procedure instituted by any respondent against whom such order has been made, to have such final order set aside upon the ground that the applicant had been prevented from appearing after notice of the order *nisi* or interlocutory order by reason of accident or misfortune, or that such order *nisi* or interlocutory order had never been served upon him. And if the ground of such application is duly established to the satisfaction of the court, as against the original petitioner, the court may set aside the final order complained of upon such terms and conditions as the court shall consider it just and right to impose upon the applicant; and upon the final order being so set aside, the court shall proceed with the hearing and determination of the matter of the original petition as from the point at which the final order so set aside was made.

Parties.

390 In an application, or action, of summary procedure the persons, petitioning or respondent, are the parties to the action.

391 On the institution of an application of summary procedure which is not made in, or incidental to, any already pending action, the court shall commence and keep a journal entitled as of the matter of the application, according to the rules prescribed in section 92, and this journal so kept shall be the record of the matter of the application. Journal.

PART III.

INCIDENTAL PROCEEDINGS.

CHAPTER XXV.

Of the Continuation of Actions after alteration of a Party's Status.

392 The death of a plaintiff or defendant shall not cause the action to abate if the right to sue on the cause of action survives. On death of a party action does not abate if right to sue survives

393 If there be more plaintiffs or defendants than one and any of them dies, and if the right to sue on the cause of action survives to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the court shall, on application in the way of summary procedure, make an order to the effect that the action do proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants. On death of one out of more plaintiffs or defendants than one if right to sue survive to or against the rest action to proceed.

394 If there are more plaintiffs than one, and any of them dies, and if the right to sue does not survive to the surviving plaintiff or plaintiffs alone, but survives to him or them and the legal representative of the deceased plaintiff jointly, the court may cause the legal representative, if any, of the deceased plaintiff to be made a party, and shall thereupon cause an entry to that effect to be made on the record and proceed with the action. If, on death of one of several plaintiffs, the right to sue survives to the rest jointly with legal representative of deceased, legal representative may be made plaintiff.

For the purposes of this chapter legal representative shall mean an executor or administrator, or in the case of an estate below the value of one thousand rupees, the next of kin who have adiated the inheritance.

395 In case of the death of a sole plaintiff or sole surviving plaintiff the legal representative of the deceased may, where the right to sue survives, apply to the court to have his name entered on the record in place of the deceased plaintiff, and the court shall thereupon enter his name and proceed with the action On death of sole plaintiff, legal representative may be substituted.

396 If no such application be made to the court by any person claiming to be the legal representative of the deceased plaintiff, the court may pass an order that the action shall abate, and award to the defendant the costs which he may have incurred in defending the action, to be recovered from the estate of the deceased plaintiff; or the court may, if it think proper, on the application of the defendant, and upon or action may be declared to abate.

such terms as to costs or otherwise as it thinks fit, pass such other order as it thinks fit for bringing in the legal representative of the deceased plaintiff, or for proceeding with the action in order to a final determination of the matter in dispute, or for both those purposes.

In case of dispute, court to decide who is legal representative.

397 In the event of any dispute arising as to who is the legal representative of a deceased plaintiff, it is competent to the court either to stay the action until the question has been decided in another action, or to decide at once, as between the parties before it, who shall be admitted to be such legal representative for the purpose of prosecuting the action. And this question shall in such case be dealt with and tried by the court as an issue preliminary to the trial of the merits of the action.

Of substitution of legal representative of deceased defendant.

398 If there be more defendants than one, and any of them die before decree and the right to sue on the cause of action does not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the right to sue survives, the plaintiff may make an application to the court, specifying the name, description, and place of abode of any person whom he alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead. The court shall thereupon, on being satisfied that there are grounds therefor, enter the name of such representative on the record in the place of such defendant, and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the action, and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant, and had been a party to the former proceedings in the action.

Proviso.

Provided that the person so made defendant may object that he is not the legal representative of the deceased defendant, or may make any defence appropriate to his character as such representative.

The legal representative of a deceased defendant may apply to have himself made a defendant in place of the deceased defendant, and the provisions of this section, so far as they are applicable, shall apply to the application and to the proceedings and consequences ensuing thereon.

Action not abated by marriage of female party.

399 The marriage of a female plaintiff or defendant shall not cause the action to abate, but the action may, notwithstanding, be proceeded with to judgment; and where the decree is against a female defendant, it may thereupon be executed against her alone.

If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with such permission, be issued upon the application of the husband where the husband is by law entitled to the subject-matter of the decree.

400 The bankruptcy or insolvency of a plaintiff in any action which his assignee might maintain for the benefit of his creditors shall not bar the action, unless such assignee declines to continue the action and to give security for the costs thereof, within such time as the court may order.

Effect of bankruptcy.

401 If the assignee neglects or refuses to continue the action and to give such security within the time so ordered, the defendant may apply for the dismissal of the action on the ground of the plaintiff's bankruptcy or insolvency, and the court may dismiss the action and award to the defendant the costs which he has incurred in defending the same, to be proved as a debt against the plaintiff's estate.

When assignee does not continue action.

402 If a period exceeding twelve months in the case of a district court, or six months in a court of requests, elapses subsequently to the date of the last entry of an order or proceeding in the record without the plaintiff taking any step to prosecute the action where any such step is necessary, the court may pass an order that the action shall abate.

When court itself may order action to abate.

403 When an action abates or is dismissed under this chapter, no fresh action shall be brought on the same cause of action.

But the plaintiff or the person claiming to be the legal representative of a deceased or insolvent plaintiff may, within such period of time as may seem to the court under the circumstances of the case to be reasonable, apply for an order to set aside the order for abatement or dismissal; and if it be proved that he was prevented by any sufficient cause from continuing the action, the court shall set aside the abatement or dismissal upon such terms as to costs or otherwise as it thinks fit.

No fresh action to be brought where action has abated; but court may set aside order.

404 In other cases of assignment, creation, or devolution of any interest pending the action, the action may, with the leave of the court, given either with the consent of all parties or after service of notice in writing upon them, and hearing their objections, if any, be continued by or against the person to whom such interest has come, either in addition to or in substitution for the person from whom it has passed, as the case may require.

Continuation of action in other case of assignment of party's interest

405 The application under section 398 may be made *ex parte*, but in all other applications for the exercise of the discretion of the court under this chapter all the parties to the action, not being the applicants, or such of them as may be affected by the order sought, must be made respondents on the face of the application.

Applications under this chapter how to be made.

CHAPTER XXVI.

Of the Withdrawal and Adjustment of Action.

406 If, at any time after the institution of the action, the court is satisfied on the application of the plaintiff (*a*) that the action must fail by reason of some formal defect, or (*b*) that there are sufficient grounds for permitting him to

Withdrawal and adjustment of action.

withdraw from the action or to abandon part of his claim with liberty to bring a fresh action for the subject-matter of the action, or in respect of the part so abandoned, the court may grant such permission on such terms as to costs or otherwise as it thinks fit.

If the plaintiff withdraw from the action, or abandon part of his claim, without such permission, he shall be liable for such costs as the court may award, and shall be precluded from bringing a fresh action for the same matter or in respect of the same part. Nothing in this section shall be deemed to authorize the court to permit one of several plaintiffs to withdraw without the consent of the others.

Permission to bring fresh action not to affect prescription.

407 In any fresh action instituted on permission granted under the last preceding section, the plaintiff shall be bound by the law of prescription or limitation in the same manner as if the first action had not been brought.

Adjustment of actions out of court.

408 If an action be adjusted wholly or in part by any lawful agreement or compromise, or if the defendant satisfy the plaintiff in respect to the whole or any part of the matter of the action, such agreement, compromise, or satisfaction shall be notified to the court by motion made in presence of, or on notice to, all the parties concerned, and the court shall pass a decree in accordance therewith, so far as it relates to the action, and such decree shall be final, so far as relates to so much of the subject-matter of the action as is dealt with by the agreement, compromise, or satisfaction.

CHAPTER XXVII.

Of Payment of Money into Court.

Payment of money into court.

409 The defendant in any action brought to recover a debt or damage may, at any stage of the action, deposit in court such sum of money as he considers a satisfaction in full of the plaintiff's claim.

Notice thereof.

410 Notice in writing of the deposit shall be given by the defendant to the plaintiff, and the amount of the deposit shall (unless the court otherwise directs) be paid out of court to the plaintiff on his application.

Interest on deposit not allowed to plaintiff after notice.

411 No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof.

Plaintiff may accept in part or

412 If the plaintiff accepts such amount only as satisfaction in part of his claim, he may prosecute his action for the balance; and if the court eventually decides that the deposit by the defendant was a full satisfaction of the plaintiff's claim, the plaintiff must pay the costs of the action incurred after the deposit and the costs incurred previous thereto, so far as they were caused by excess in the plaintiff's claim.

413 If the plaintiff accepts such amount as satisfaction in full of his claim, he shall present to the court a statement to that effect, embodied in a motion for judgment, and the court shall pass judgment accordingly, and in directing by whom the costs of each party are to be paid the court shall consider which of the parties is most to blame for the litigation. in full.

Illustrations.

(*a*) A owes B one hundred rupees. B sues A for the amount, having made no demand for payment, and having no reason to believe that the delay caused by making a demand would place him at a disadvantage. On the plaint being filed, A pays the money into court. B accepts it in full satisfaction of his claim, but the court should not allow him any costs, the litigation being presumably groundless on his part.

(*b*) B sues A under the circumstances mentioned in illustration (*a*). On the plaint being filed, A disputes the claim. Afterwards A pays the money into court. B accepts it in full satisfaction of his claim. The court should also give B his costs of action, A's conduct having shown that the litigation was necessary.

(*c*) A owes B one hundred rupees, and is willing to pay him that sum without action. B claims one hundred and fifty rupees, and sues A for that amount. On the plaint being filed, A pays one hundred rupees into court, and disputes only his liability to pay the remaining fifty rupees. B accepts the one hundred rupees in full satisfaction of his claim. The court should order him to pay A's costs.

414 When a defendant by his answer or any party to an action by petition professes to pay money into court, or when a defendant by his answer sets up a tender of any sum of money before action brought, the answer or the petition shall not be received or filed by the court unless either the sum of money so professed to have been paid into court, or so alleged to have been tendered, is actually paid into court, or the requisite steps for the purpose are taken by the defendant or other party, as the case may be. Money must be actually paid.

415 The enactments of this chapter shall apply, *mutatis mutandis*, to the case of payment of money into court made by any party to the action in satisfaction of the claim of any other party. This chapter to apply to any party.

CHAPTER XXVIII.

Of Security for Costs.

416 If at the institution, or at any subsequent stage, of an action, it appears to the court that a sole plaintiff is, or (when there are more plaintiffs than one) that all the plaintiffs are, residing out of the jurisdiction of the court, the court may in its discretion, and either of its own motion or on the application of any defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by any defendant. Security for costs in case of non-residence.

Where defendant is non-resident.

417 If at the institution, or at any subsequent stage of an action, it appears to the court that the defendant, or (where there are more defendants than one) that any defendant, is residing out of the jurisdiction of the court, the court may in its discretion, and either of its own motion or on the application of such defendant, order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by such defendant.

If not furnished when ordered, action may be dismissed.

418 In the event of such security not being furnished within the time so fixed, the court shall dismiss the action, unless the plaintiff or plaintiffs be permitted to withdraw therefrom under the provisions of section 406, or show good cause why such time should be extended, in which case the court may extend it.

Dismissal may be set aside.

When an action is dismissed under this section the plaintiff may within thirty days, and after due notice in writing to the defendant, apply for an order to set the dismissal aside, and if it is proved to the satisfaction of the court that he was prevented by any sufficient cause from furnishing the security within the time allowed, the court shall set aside the dismissal upon such terms as to security, costs, or otherwise as it thinks fit, and shall appoint a day for proceeding with the action.

What amounts to non-residence.

419 Whoever leaves, or is about to leave, the jurisdiction under such circumstances as to afford reasonable probability that he will not be forthcoming whenever he may be called upon to pay costs, shall be deemed to be residing out of the jurisdiction within the meaning of section 416 or 417.

CHAPTER XXIX.

Of Commissions.

A.—*Commissions to examine Witnesses.*

Commission to examine sick person within jurisdiction;

420 Any court may in any action issue a commission for the examination on interrogatories or otherwise, and on oath or affirmation, of persons resident within the local limits of its jurisdiction who are from sickness or infirmity unable to attend the court, or of women who, according to the customs and manners of the country, ought not to be compelled to appear in public.

to whom to be issued.

421 The commission for the examination of a person who resides within the local limits of the jurisdiction of the court issuing the same may be issued to any person whom the court thinks fit to execute the same.

Commission to examine in other cases:

422 Any court may in any action issue a commission for the examination of—

(*a*) Any person resident beyond the local limits of its jurisdiction;

(*b*) Persons who are about to leave such limits before the date on which they are required to be examined in court; and

(*c*) Civil and military officers of Government who cannot in the opinion of the judge attend the court without detriment to the public service; and

(*d*) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public.

to whom to be issued.

Such commission shall ordinarily be issued to any court, except the Supreme Court, within the local limits of whose jurisdiction such person resides, and which can most conveniently execute the same. Provided that, under special circumstances, the commission may be directed to any person whom the court issuing the commission thinks fit to appoint.

Proviso.

Evidence of non-resident person must be necessary.

423 When any court to which application is made for the issue of a commission for the examination of a person residing at any place not within the colony is satisfied that his evidence is necessary, the court may issue such commission.

Court to execute the commission.

424 Every court receiving a commission for the examination of any person shall examine him pursuant thereto.

Return thereof.

425 After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) be recorded in the action.

Evidence taken under commission when admissible.

426 Evidence taken under a commission shall not be read as evidence in the action without the consent of the party against whom the same is offered, unless—

(*a*) The person who gave the evidence is beyond the jurisdiction of the court, or dead, or unable from sickness or infirmity to attend to be personally examined; or is a person whom the court, in accordance with the customs and manners of the country, sees reason to exempt from personal appearance in court; or

(*b*) The court in its discretion, for good cause to be assigned by it, dispenses with the proof of any of the circumstances mentioned in the last preceding section and authorizes the evidence of any person being read as evidence in the action, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

Foreign courts to which provisions apply.

427 The provisions hereinbefore contained as to the execution and return of commissions shall apply to commissions issued by—

(*a*) Courts situate within the limits of British India, and established by the authority of Her Majesty or of the Governor-General in Council ; or

(*b*) Courts situate in any part of the British Empire other than British India ; or

(*c*) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—*Commissions for Local Investigations.*

Commission to make local investigation.

428 In any action or proceeding in which the court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market value of any property, or the amount of any mesne profits or damages or annual net profits, and the same cannot be conveniently conducted by the judge in person, the court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report to the court.

Return thereof.

429 The commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the court.

C.—*Commissions to examine Accounts.*

Commission to examine accounts;

430 In any action in which an examination or adjustment of accounts is necessary, the court may issue a commission to such person as it thinks fit, directing him to make such examination.

Court to furnish instructions.

431 The court shall furnish the commissioner with such part of the proceedings of the action and such detailed instructions as appear necessary, and the instructions shall distinctly specify whether the commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

General Provisions.

Evidence taken on commission shall be filed and recorded in the action.

432 The commission in every case within this chapter shall be entitled as in the action, whether of regular or summary procedure, in which it issued, and on its return shall, with all the proceedings, evidence, and documents, if any, taken therein, be filed and recorded as of that action.

Commissioner may be examined personally.

The report of the commissioner or commissioners in each case within (B) and (C), and the evidence taken by a commissioner (but not the evidence without the report), shall be evidence in the action ; but the court, or, with the permission of the court, any of the parties to the action, may examine the commissioner personally in open court touching any of the matters referred to him, or mentioned in his report, or as to the manner in which he has made the investigation or conducted his proceedings.

Court may order payment into court of expenses.

433 Before issuing any commission under this chapter the court may order such sum (if any) as it thinks reasonable for the expenses of the commission, to be paid into court by the party at whose instance or for whose benefit the commission is issued.

Powers of commissioners.

434 Any commissioner appointed under this chapter shall have authority to administer an oath or affirmation, and may, unless otherwise directed by the order of appointment—

(*a*) Examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the commissioner thinks proper to call upon to give evidence in the matter referred to him;

(*b*) Call for and examine documents and other things relevant to the subject of inquiry;

(*c*) At any reasonable time enter upon or into any land or building mentioned in the order.

Provisions of Code as to witnesses to apply.

435 The provisions of this Ordinance relating to the summoning, attendance, and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this chapter, whether the commission in execution of which they are so required has been issued by a court situate within, or by a court situate beyond, the limits of the colony.

Parties should appear before commissioner.

436 Whenever a commission is issued under this chapter, the court shall direct that the parties to the action shall appear before the commissioner in person or by their recognized agents or proctors.

If the parties do not so appear, the commissioner may proceed *ex parte.*

Affidavits.

Evidence on affidavit.

437 Whenever any order has been made by any court for the taking of evidence on affidavit, or whenever evidence on affidavit is required for production in any application or action of summary procedure, whether already instituted or about to be instituted, an affidavit or written statement of facts conforming to the provisions of section 181 may be sworn or affirmed to by the person professing to make the statement embodied in the affidavit before any court or justice of the peace or commissioner to administer oaths within the local limits of whose jurisdiction he is at the time residing, and the fact that the affidavit appears to be entitled in an action in a competent court shall be sufficient authority to such court or justice of the peace to administer the oath or affirmation.

Affidavit to be duly entitled and to be signed by the declarant.

438 Every affidavit shall be entitled as in the court and action in which it is to be used, and shall be signed by the declarant in the presence of the court, justice of the peace, or commissioner before whom it is sworn or affirmed.

Case of illiterate person.

439 In the event of the declarant being a blind or illiterate person, or not able to understand writing in the English language, the affidavit shall at the same time be read over or interpreted to him in his own language, and the jurat shall express that it was read over or interpreted to him in the presence of the court, justice of the peace, or commissioner, and that he appeared to understand the contents; and also

that he made his mark or wrote his signature in the presence of the court, justice of the peace, or commissioner. And when a mark is made instead of a signature, the person who writes the marksman's name against the mark shall also sign his name and address in the presence of the court, justice of the peace, or commissioner.

Alteration of affidavit.

440 Every affidavit must be fairly written, and must exhibit no erasures or blotting or blanks ; if any alteration is needed to be made in the original writing before it is sworn or affirmed to, every excision of a word, or letter, or figure shall be made by so drawing a line through it as to leave the word, letter, or figure still legible ; and every added word, letter, or figure shall be added by interlineation, not by superposition or alteration ; and every excision and interlineation shall be initialled by the judge, justice of the peace, or commissioner before whom the affidavit is affirmed or sworn.

PART IV.

ACTIONS IN PARTICULAR CASES.

CHAPTER XXX.

Actions by Paupers.

Paupers.

441 Subject to the following rules, any action may be brought by a pauper.

Explanation.—A person is a "pauper" when he is not entitled to property worth fifty rupees, other than his necessary wearing apparel and the subject-matter of the action.

When a pauper may not sue.

442 No action shall be brought by a pauper to recover compensation for libel, slander, or abusive language.

Form of petition for leave to sue.

443 The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 40 in regard to plaints in actions ; a schedule of any movable or immovable property belonging to the applicant, with the estimated value thereof, shall be annexed thereto ; and it shall be subscribed in the manner hereinbefore prescribed for the subscription of plaints.

Application to be verified, and particulars of verifications.

444 Attached to every such application shall be an affidavit sworn or affirmed by the applicant and by two headmen or respectable persons of the place at which the applicant resides, to the following effect :

(*a*) That the applicant is a pauper ;

(*b*) That he has not within the two months next before the presentation of his application disposed of any property fraudulently, or with a view to obtain the benefit of this chapter ;

(*c*) That he has not entered into any agreement with reference to the subject-matter of the proposed action under which any person has obtained an interest in that subject-matter.

445 Notwithstanding anything contained in section 24, the application shall be presented to the court by the applicant in person.

Application must be made in person,

446 If the application be not framed or presented in the manner prescribed by sections 443 and 445, the court shall reject it.

or court will reject it.

447 If the application be in proper form, it shall forthwith be referred to one of the proctors of the court, who shall be selected in rotation for this purpose, and shall inquire of the applicant what are the grounds of his proceeding and the evidence by which he proposes to support it, and after examining any documents or other evidence which the applicant may produce to him, the proctor referee shall certify to the court his opinion whether or not the applicant has a good cause of action against the defendant.

If such proctor shall certify that the applicant has not a good cause of action, the court shall reject the application; but if he shall certify that the applicant has a good cause of action, the court shall, on the footing of the application and of the proctor's certificate, make an interlocutory order under alternative (*b*) of section 377, appointing a day for the determination of the question of pauperism, and intimating that the opposite party or respondent will be heard in opposition to the application on this ground upon the day appointed. And the proceedings thereupon shall be in accordance with the provisions of chapter XXIV.

Court to direct a proctor to make inquiry of applicant, and to certify his opinion to the court, which will accordingly reject the application, or make order for hearing the question of pauperism.

448 If on the day so appointed, or on a subsequent day to which the hearing may have been adjourned, the question of pauperism be determined in favour of the applicant, then the application to be allowed to sue as a pauper shall be granted, and an order to that effect shall be made by the court.

On pauperism being found, leave to sue to be granted.

449 And upon the application being granted it shall be numbered and filed, and shall be deemed the plaint in the action, and the action shall proceed in all other respects as an action instituted under chapter VII., except that the plaintiff shall not be liable to any stamps in respect of any petition, appointment of the proctor, or other proceeding connected with the action.

Proceedings thereon.

450 If the plaintiff succeeds in the action, the court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the action.

Recovery of value of stamps.

451 If the plaintiff fails in the action, or if he is dispaupered, or if the action is dismissed under section 84, or struck off the file under section 88, the court shall order the plaintiff, or any person added under section 18 as plaintiff in the action, to pay the stamp fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper.

When court may order plaintiff to pay stamp fees.

Refusal of application no bar to pauper's right to sue.

452 An order of refusal to allow the applicant to sue as a pauper made under section 447 shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue ; but the applicant shall be at liberty to institute an action in the ordinary manner in respect of such right, on first paying the costs of his unsuccessful application.

Application to defend as a pauper.

453 A defendant in any action may apply to the court in which such action is pending for leave to defend the action as a pauper. The application shall be made in the same manner as, and shall contain the particulars by this chapter required to be contained in, applications to sue as a pauper, except that the particulars necessary to be inserted in answers in actions shall be substituted for those necessary in plaints, and shall, *mutatis mutandis*, and so far as the same is practicable, be subject to the same rules and conditions as are in this chapter prescribed with regard to applications for leave to sue as a pauper.

When court may order plaintiff to be dispaupered.

454 The court may on motion made by the other party, of which one week's notice in writing has been given to the party permitted to sue or defend as a pauper, order such party to be dispaupered—

(*a*) If he is guilty of vexatious or improper conduct in the course of the action ;

(*b*) If it appears that his means are such that he ought not to continue to sue or defend as a pauper ; or

(*c*) If he has entered into an agreement with reference to the subject-matter of the action under which any other person has obtained an interest in such subject-matter.

Costs of application to be costs in cause.

455 The costs of an application for permission to sue or defend as a pauper, and of an inquiry into pauperism, are costs in the action.

CHAPTER XXXI.

Actions by or against the Crown or Public Officers.

Actions by or against the Crown.

456 All actions by or against the Crown shall be instituted by or against (as the case may be) the Attorney-General. Provided that in courts of requests, any person duly appointed under sub-section (*d*) of section 25 may institute an action for and in the name of the Crown as party plaintiff.

In actions by the Crown instituted by the Attorney-General, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "the Attorney-General."

Attorney-General does not in this section include the Solicitor-General or any Crown counsel.

457 In any action to which the Crown is a party, processes of court other than the original summons issuing against the Crown shall be served upon the Attorney-General, or the Crown counsel having jurisdiction in the district where the court is situate; but the original summons shall be served upon the Attorney-General.

Service of process.

458 The court, in fixing the day for the Attorney-General to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and may extend the time at its discretion.

Attorney-General to have reasonable time to appear.

459 Where the defendant is a public officer, the court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the court that the summons may be most conveniently so served.

Service on public officer.

460 If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel; and the court upon such application may extend the time for so long as appears to be requisite.

Public officer may apply for time to answer.

461 No action shall be instituted against the Attorney-General as representing the Crown, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of one month next after notice in writing has been delivered to such Attorney-General or officer (as the case may be), or left at his office, stating the cause of action and the name and place of abode of the person intending to institute the action and the relief which he claims; and the plaint in such action must contain a statement that such notice has been so delivered or left.

Attorney-General and public officer entitled to notice.

462 No writ against person or property shall be issued against the Attorney-General in any action brought against the Crown in any case.

Writ against person or property in such action

463 If the Government undertake the defence of an action against a public officer, the Attorney-General shall apply to the court, and upon such application the court shall substitute the name of the Attorney-General as a party defendant in the action.

When Attorney-General may intervene.

464 If such application is not made by the Attorney-General on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in an action between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

In event of no such intervention, action to proceed as against private party.

465 In an action against a public officer in respect of such act as aforesaid, the court shall exempt the defendant from appearing in person when he satisfies the court that he cannot absent himself from his duty without detriment to the public service.

Public officer need not appear in person.

CHAPTER XXXII.

Actions by Aliens, and by or against Foreign Rulers.

Actions by aliens.

466 Alien enemies residing in Ceylon with the permission of the Governor, and alien friends, may sue in the courts of this island as if they were subjects of Her Majesty.

No alien enemy residing in Ceylon without such permission, or residing in a foreign country, shall sue in any of such courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State, or of the Colonial Secretary of this island, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

By foreign states.

467 A foreign state may sue in the courts of this colony provided that—

(*a*) It has been recognized by Her Majesty ; and

(*b*) The object of the action is to enforce the private rights of the head, or of the subjects, of the foreign state.

The court shall take judicial notice of the fact that a foreign state has not been recognized by Her Majesty.

Recognized agents of foreign powers.

468 Persons specially appointed by order of Government at the request of any sovereign prince or ruling chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without the island, or at the request of any person competent in the opinion of the Government to act on behalf of such prince or chief, to prosecute or defend any action on his behalf, shall be deemed to be the recognized agents by whom appearances and applications may be made or acts may be done under this Ordinance on behalf of such prince or chief.

A person appointed under this section may authorize or appoint persons to make and do appearances, applications, and acts in any such action, as if he were himself a party to the action.

When foreign state may be sued.

469 Any such prince or chief, and any ambassador or envoy of a foreign state may, with the consent of Government, certified by the signature of the Colonial Secretary (but not without such consent), be sued in any competent court.

Such consent shall not be given unless—

(*a*) The prince, chief, ambassador, or envoy has instituted an action in such court against the person desiring to sue him ; or

(*b*) The prince, chief, ambassador, or envoy by himself or another trades within the local limits of the jurisdiction of such court ; or

(*c*) The prince, chief, ambassador, or envoy is in possession of immovable property situate within such limits, and is to be sued with reference to such possession or for money charged on that property.

No such prince, chief, ambassador, or envoy shall be arrested under this Ordinance; and no decree shall be executed against the property of any such prince, chief, ambassador, or envoy, unless with consent of Government certified as aforesaid.

CHAPTER XXXIII.

Actions by and against Corporations and Companies.

Actions by or against a corporation or company.

470 In actions by or against any corporation, or by or against a board or other public body, or any company authorized to sue or be sued, the name and the style of the corporation, board, public body, or company, or of the officer (if any) in whose name any such corporation, board, public body, or company is authorized to sue and be sued, as the case may be, may be inserted as the name of the plaintiff or defendant; and the plaint or answer may be subscribed on behalf of the corporation, board, public body, or company by any member, director, secretary, manager, or other principal officer thereof who is able to depose to the facts of the case; and in any case in which such corporation, board, public body, or company is represented by a proctor, shall be subscribed by such proctor.

Service on corporation or company.

471 When the action is against a corporation, or against a board or other public body, or a company authorized to sue and be sued in the name of an officer or of a trustee, except in cases where a particular mode of service is directed by law, the summons may be served—

(*a*) By leaving it at the registered office (if any) of the corporation, board, public body, or company; or

(*b*) By giving it to the secretary or other principal officer of the corporation, board, public body, or company;

and the court may in such summons or by special order require the personal appearance of such secretary or other principal officer of the corporation, board, public body, or company who may be able to answer material questions relating to the action.

CHAPTER XXXIV.

Actions by and against Trustees, Executors, and Administrators.

Actions against trustees, executors, and administrators

472 In all actions concerning property vested in a trustee, executor, or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor, or administrator

shall represent persons so interested ; and it shall not ordinarily be necessary to make them parties to the action. But the court may, if it think fit, order them, or any of them, to be made such parties.

All executors should be made parties.

473 When there are several trustees, executors, or administrators, they shall all be made parties to an action by or against one or more of them.

Proviso.

Provided that executors who have not proved their testator's will, and trustees, executors, and administrators beyond the local limits of the jurisdiction of the court, need not be made parties.

Executors and administrators liable in costs.

474 In every action brought by an executor or administrator in right of his testator or intestate, such executor or administrator shall, unless the court shall otherwise order, be liable to pay costs to the defendant in case of judgment being entered for the defendant, and in all other cases, in which he would be liable if such plaintiff were suing in his own right upon a cause of action accruing to himself; and the defendant shall have judgment for such costs, and they shall be recovered accordingly.

Husband of executrix not to be made party.

475 Unless the court directs otherwise, the husband of a married executrix or administratrix shall not be a party to an action by or against her in her representative capacity.

CHAPTER XXXV.

Actions by and against Minors and Persons under other Disqualification.

Action by minor.

476 Every action by a minor shall be instituted in his name by an adult person, who in such action shall be designated in the plaint the next friend of the minor, and may be ordered personally to pay any costs in the action as if he were the plaintiff.

Next friend and guardian *ad litem.*

477 Every application to the court on behalf of a minor (other than an application under section 487) shall be made in his name by his next friend or his guardian for the action, and shall be so expressed to be made on the face of the application.

Procedure where no next friend.

478 If a plaint be filed by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the proctor or other person by whom it was presented. Such application shall be made on summary procedure by the defendant; and the court, after hearing the objections, if any, of the person against whom it is made, may make such order in the matter as it thinks fit.

Court may appoint guardian *ad litem.*

479 Where the defendant to an action is a minor, the court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the action for such minor, and generally to act on his behalf in the conduct of the case.

480 Every order made in an action or on any application before the court in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the action, as the case may be, may be discharged on application made on summary procedure for the purpose; and, if the proctor of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, it may on such application be discharged with costs to be paid by such proctor, provided he was duly made a respondent to the application.

No order to affect minor not represented.

481 Any person being of sound mind and full age may be appointed next friend of a minor, provided his interest is not adverse to that of such minor and he is not a defendant in the action. Such appointment shall be made after application by way of summary procedure supported by affidavit, showing the fitness of the person proposed, and also that he has no interest adverse to the minor, and to such application the defendant shall be made respondent. And on the occasion of any such application being made the minor should appear personally in court unless prevented by good cause, such as extreme youth or illness.

Who may act as next friend.

482 If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the action, ceases to reside within the colony, or for any other sufficient cause, application may be made on summary procedure on behalf of the minor or by a defendant for his removal; and the court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

On cause shown court may remove next friend.

483 Unless otherwise ordered by the court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

The application for the appointment of a new next friend shall be on summary procedure supported by affidavit, showing the fitness of the person proposed, and also that he has no interest adverse to the minor, and to such application the defendant shall be made respondent.

Retirement of next friend.

484 On the death or removal of the next friend of a minor further proceedings shall be stayed until the appointment of a next friend in his place.

Death or removal of next friend.

485 If the proctor of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may, on summary procedure, apply to the court for the appointment of one, making the defendant a respondent to the application; and the court may thereupon appoint such person as it thinks fit.

Appointment of new next friend.

Minor's right of election on coming of age.

486 A minor plaintiff, or a minor not a party to an action on whose behalf an application is pending, on coming of age, must elect whether he will proceed with the action or application.

Discharge of next friend on election to proceed.

487 If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

The title of the action or application shall, upon such order being made, be altered so as to read thenceforth thus: "*A. B.*, late a minor, by *C. D.*, his next friend, but now of full age."

Procedure on election of sole plaintiff to abandon on payment of costs.

488 If he elects to abandon the action or application, he shall, if a sole plaintiff or sole applicant, apply for an order to dismiss the action or application, on re-payment of the costs incurred by the defendant, or respondent, or which may have been paid by his next friend.

Application to be *ex parte*.

489 Any application under section 487 or section 488 may be made *ex parte;* and the affidavit of facts upon which it is based must satisfy the court that the late minor has attained his full age.

Procedure on election of a co-plaintiff to repudiate.

490 A minor co-plaintiff on coming of age, and desiring to repudiate the action, must apply to have his name struck out as co-plaintiff; and the court, if it finds that he is not a necessary party, shall dismiss him from the action on such terms as to costs or otherwise as it thinks fit.

The next friend, as well as the defendant, shall be served with the petition of application as respondent, and it must be proved by affidavit that the late minor has attained his full age; the costs of all parties of such application and of all or any proceedings theretofore had in the action shall be paid by such persons as the court directs.

If the late minor be a necessary party to the action, the court may direct him to be made a defendant.

Procedure when ex-minor applies to have action dismissed as unreasonable or improper.

491 If any minor on attaining majority can prove to the satisfaction of the court that an action instituted in his name by a next friend was unreasonable or improper, he may, if a sole plaintiff, apply by way of summary procedure to have the action dismissed.

Notice of the application shall be served on all the parties concerned, including the next friend, and the court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the action.

Minor may in person sue for wages.

492 Nothing in the foregoing sections shall affect the right of any minor to prosecute any proceedings in a court of requests for any money which may be due to him for wages or piecework, or for work as a servant, artificer, or labourer, in the same manner as if he were of full age.

Application for appointment of guardian *ad litem*.

493 An order for the appointment of a guardian for the action may be obtained upon application on summary procedure in the name and on behalf of the minor or by

the plaintiff. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the action adverse to that of the minor, and that he is a fit person to be so appointed.

On the occasion of such an application being made, the minor ought to appear personally in court unless prevented by good cause, such as extreme youth or illness, from doing so.

When officer of court may be appointed.

494 When there is no other person fit and willing to act as guardian for the action, the court may appoint any of its officers to be such guardian, provided that he has no interest adverse to that of the minor.

Co-defendant may be appointed.

495 A co-defendant of sound mind and of full age may be appointed guardian for the action, if he has no interest adverse to that of the minor; but neither a plaintiff nor a married woman can be so appointed.

Court may remove guardian *ad litem*.

496 If the guardian for the action of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the court may remove him and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

Death of guardian.

497 If the guardian for the action dies pending such action, or is removed by the court, the court shall appoint a new guardian in his place.

Procedure for execution of decree against minor heir.

498 When the enforcement of a decree or order is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the action of such minor shall be appointed by the court, on an application of summary procedure duly made for this purpose, and the decree-holder shall then serve on such guardian notice of such application.

When court may allow next friend funds for suit.

499 No sum of money or other thing shall be received or taken by a next friend or guardian for the action on behalf of a minor at any time before decree or order, unless he has first obtained the leave of the court, and given security to its satisfaction that such money or other thing shall be duly accounted for to, and held for the benefit of, such minor.

Next friend may not compound action without leave of court.

500 No next friend or guardian for the action shall, without the leave of the court, enter into any agreement or compromise on behalf of a minor with reference to the action in which he acts as next friend or guardian.

Any such agreement or compromise entered into without the leave of the court shall be voidable against all parties other than the minor.

This chapter to apply to persons of unsound mind.

501 The provisions contained in this chapter shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under the provisions of this Ordinance or under any law for the time being in force.

Majority, what is.

502 For the purposes of this chapter, a minor shall be deemed to have attained majority or full age on his attaining the age of twenty-one years, or on marriage, or on obtaining letters of *venia ætatis*.

CHAPTER XXXVI.

Actions by and against Naval and Military Men in Service.

Actions by or against naval and military men.

503 When any naval or military officer or any sailor or soldier, actually serving the Government in a naval or military capacity, is a party to an action, and cannot obtain leave of absence for the purpose of prosecuting or defending the action in person, he may authorize any person to sue or defend in his stead.

Authority to agent.

The authority shall be in writing, and shall be signed by the party in the presence of—

(*a*) His commanding officer or of the next subordinate officer, if the party be himself the commanding officer; or

(*b*) Where the party is serving in military or naval staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the party by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the action in person.

Explanation.—In this chapter the expression "commanding officer" means the officer in actual command for the time being of any ship, regiment, corps, detachment, or naval or military depôt to which the party belongs.

Agent may sue or defend in person.

504 Any person authorized by such party to prosecute or defend an action in his stead may prosecute or defend it in person in the same manner as such party could do if present; or he may appoint a proctor to prosecute or defend the action on behalf of such party.

Service of process in such

505 Processes served upon any person authorized by any party under section 503, or upon any proctor appointed as aforesaid by such person to act for or on behalf of such party, shall be as effectual as if they had been served on the party in person or on his proctor; and no process in the action shall be served upon such party personally without express order of court.

Copy of summons may be sent to commanding officer for

506 When any naval or military officer or any sailor or soldier is a defendant, a copy of the summons shall be sent by the fiscal to his commanding officer for the purpose of being served on him.

The officer to whom such copy is sent shall cause it to be served on the person to whom it is addressed, if practicable, and shall return it to the fiscal with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the fiscal by whom it was sent, with information of the cause which has prevented the service.

Warrant of arrest may likewise be delivered for execution.

507 If, in the execution of a decree, a warrant of arrest or other process is to be executed within the limits of a cantonment, garrison, or naval or military station, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

The commanding officer shall, if the person named therein is by law liable to arrest, back the warrant or other process with his signature, and shall in the case of a warrant of arrest cause such person, if within the limits of his command, to be arrested and delivered to the officer so charged.

CHAPTER XXXVII.

Actions of Account.

Actions of account.

508 When the claim which is made in the plaint, or is set up in the answer, is such that the action cannot be disposed of, or a complete and final decree made in the matter thereof between the parties without the taking of accounts, or the making inquiry into facts, or the demarcation of land, or the realization of assets, as the case may be, it shall be competent to the court to adjudicate piecemeal upon the matters in issue, and in such adjudications to make interlocutory decrees or orders of a final character between the parties at hearings had by successive adjournments; and, in particular, to take any accounts, and to make an inquiry into facts separately from the remaining matter of the action on a day to be appointed for the purpose, and to issue the necessary directions or commissions for the demarcation of land or realization of assets, and to adjourn the hearing from time to time for further orders or directions, or for final determination, to such dates as may be necessary or convenient to enable the accounts to be taken, the inquiries made, and the demarcation of land or realization of assets, as the case may be, to be effected, in the interval.

Interlocutory order for taking accounts, &c.

509 In any such case the order of adjournment for the purpose of the account being taken, inquiries made, or commissions or directions issued, must adjudicate (either by consent or upon admissions of the parties, or upon other sufficient evidence) upon so much of the rights of, or of the fiduciary relations between, the parties, which are at issue in the action, as may suffice to give rise to the liability of the respective parties affected by the order to account, or may serve to render the inquiries, directions, or commissions thereby directed proper and necessary.

Frame and scope of order.

510 Every order directing an account to be taken, or giving leave to a party to falsify or to surcharge an account, shall appoint a day for the filing of the account or of the document of falsification or surcharge, and also a subsequent time for the opposing party to file objections thereto, and again a later time for the hearing and determination of the issues between the parties arising out of the objections, and for the finding on the footing of such determination of the state of the account directed to be taken.

The taking of the accounts.

511 The account directed to be taken, before it is filed, must be verified on oath or affirmation by the accounting party. Objections to the account may be filed by any party concerned in the right taking of the accounts, and may be directed as well to adding new entries or enhancing existing entries on the debit side of the accounting party, as to falsifying the account given by him in any particular. And the trial of the issues arising out of the objections to the account shall conform, as nearly as may be, in regard to the order and method of proceeding and the taking of evidence, to the rules hereinbefore laid down for the trial of a regular action.

Reasonable care to be taken in appointing the days for the purpose.

512 The day for filing the account directed to be taken, and the times for filing the objections thereto, and for the hearing and determination of the issues arising thereout, shall respectively be fixed with a due regard to the circumstances of the matter and the situation of the parties therein, so that reasonable opportunity may be afforded to the accounting party to make out his account, to the opposing party to examine the same and to satisfy himself in respect to its correctness, and to all parties to prepare for trial.

Procedure where accounting party makes default.

513 In the event of the accounting party not duly filing his account, and not satisfying the court that there is just cause for his default, the court shall proceed with the hearing of the matter of the account and adjudicate upon the same on the day appointed therefor by finding the actual state of the account directed to be taken upon such materials as may be furnished by the opposing party. Provided, nevertheless, that any reasonable extension of time which may be *bonâ fide* required by any party, either for filing accounts or objections thereto, or for preparing for trial, may be granted by the court on such terms as it may think proper, if such extension of time be applied for at the earliest possible moment, upon materials showing good and sufficient ground, and upon notice to the other parties concerned.

Proviso.

This chapter to apply to an order for an inquiry.

514 When an order is made in an action for an inquiry into facts, the foregoing rules shall, *mutatis mutandis*, apply to the making of the order, the filing of the state of facts and of the objections thereto, or counterstate of facts, and to the trial of the issues arising thereout respectively, so nearly as reasonably may be.

Adjournment of the hearing until after the accounts, &c., shall have been taken.

515 When the hearing of an action is adjourned for the intermediate taking of accounts, making of inquiries, or execution of commissions, or of other directory orders, the interval of adjournment shall be adjusted with immediate reference to the proceedings prescribed by the foregoing rules for such interlocutory matter, so as to allow of its being conveniently completed before the resumption of the hearing so adjourned. And the order for adjournment shall include or comprehend the orders and directions requisite under these rules for the taking of the accounts or executing the other matters for which the adjournment is made. Provided, nevertheless, that any reasonable extension of the time of

adjournment which may seem to the court necessary, or which may be *bonâ fide* required by any party, in consequence of extension of time being granted for, or of delay in, or prolongation of, the proceedings of the interlocutory matters, or upon other good and sufficient ground shown by proper evidence, may be ordered by the court either on the day to which the hearing is adjourned, or upon any other day, provided reasonable notice of the application to the court for the extension of the time of adjournment be afforded to all parties.

CHAPTER XXXVIII.

Testamentary Actions.

Deposit of the will of deceased.

516 When any person shall die leaving a will in Ceylon the person in whose keeping or custody it shall have been deposited, or who shall find such will after the testator's death, shall produce the same to the district court of the district in which such depository or finder resides, or to the district court of the district in which the testator shall have died, as soon as reasonably may be after the testator's death. And he shall also make oath or affirmation, or produce an affidavit (form No. 81 schedule II.), verifying the time and place of the death, and stating (if such is the fact) that the testator has left property within the jurisdiction of that or any other, and in that event what, court, and the nature and value of such property: or, if such is the fact, that such testator has left no property in Ceylon.

The will so produced shall be numbered and initialled by the secretary, and deposited and kept in the record-room of the district court.

Penalty on neglect.

517 Any person liable to produce any will to any court under the provisions of the last preceding section, who shall wilfully omit to produce such will, or to furnish the information thereby required, shall be guilty of an offence and liable to a fine not exceeding one thousand rupees.

Who may apply for probate or administration.

518 When any person shall die leaving a will under or by virtue of which any property in Ceylon is in any way affected, any person appointed executor therein may apply to the district court of the district within which the testator died, or, if the testator died out of Ceylon and the applicant has obtained an order of the Supreme Court appointing any court to have sole testamentary jurisdiction over his estate or effects, to such court, to have the will proved, and to have probate thereof issued to him: also any person interested, either by virtue of the will or otherwise, in having the property of the testator administered, may apply to such court to have the will proved, and to obtain grant to himself of administration of the estate with copy of the will annexed. If any person who would be entitled to administration is absent from the island, a grant of letters of administration with or without the will annexed, as the case may require, may be made to the duly constituted attorney of such person.

Probate or administration compulsory where estate over one thousand rupees.

519 Upon any such application being made, and, in every case in which the estate of the testator amounts to or exceeds in value one thousand rupees, whether any such application shall have been made or not, it shall be obligatory on the court to, and the court shall, issue probate of the will to the executor or executors named therein; or if there is no executor resident in the island competent and willing to act, the court shall issue letters of administration with or without the will annexed, as the case may require, to some person who by the provisions of the last preceding section is competent to apply for the same, or to some other person who, in the opinion of the court, by reason of consanguinity, amount of interest, the safety of the estate, and probability that it will be properly administered, is a proper person to be appointed administrator: and in every such case letters of administration may be limited or not in manner hereinafter provided, as the court thinks fit. The grant of such letters shall be subject to the rules and regulations hereinafter provided with regard to such grants in other cases; and in the judgment by which such grant is made the court shall adjudicate upon the facts which constitute the grounds of the appointment.

When secretary of the court may be appointed.

520 Where there is no person fit and proper in the opinion of the court to be appointed administrator in manner in the last preceding section provided, or no such person is willing to be so appointed, and not in any other case, the court shall appoint the secretary of the court such administrator.

Security.

521 In every case in which it is found necessary, whether by reason of such executor as aforesaid not applying for probate, or by reason of there being no executor resident in the island competent and willing to act, or by reason of no person who is competent under section 518 to apply for letters of administration so applying, that any such person as is in section 519 mentioned, or the secretary of the court, should be appointed administrator, the court shall take from such person or secretary security for the due administration of the estate in manner in section 538 mentioned, and it shall not in any such case be competent for the court to dispense with such security under the provisions of section 541.

Secretary when allowed to proceed on blank.

522 In every case in which letters of administration have so as aforesaid been granted to the secretary of the court, it shall be competent for the court in its discretion to allow such secretary to proceed without supplying the stamps required by law to be supplied by executors and administrators in proceedings taken under this chapter, until such time as assets of the estate sufficient to defray the cost of the same shall have come to his hands. The amount which would have been payable by such secretary as administrator on any proceedings in which he has been so allowed to proceed on blank shall be calculated by the court, and shall be a first charge on all the assets of the estate.

To whom grant in either case should be made.

523 In the case of a conflict of claims to have the will proved and probate or grant of administration issued, the claim of an executor or his attorney shall be preferred to that of all others, and the claim of a creditor shall be postponed to the claim of a residuary legatee or devisee under the will. And in the like case of a conflict of claims for grant of administration where there is intestacy, the claim of the widow or widower shall be preferred to all others, and the claim of an heir to that of a creditor.

Mode of application and proof in case of a will.

524 Every application to the district court to have the will of a deceased person proved shall be made on petition by way of summary procedure, which petition shall set out in numbered paragraphs the relevant facts of the making of the will, the death of the testator, the heirs of the deceased to the best of the petitioner's knowledge, the details and situation of the deceased's property, and the grounds upon which the petitioner is entitled to have the will proved ; the petition shall also show whether the petitioner claims as creditor, executor, administrator, residuary legatee, legatee, heir, devisee, or in any and what other character.

If the will is not already deposited in the district court in which the application is made, it must either be appended to the petition, or must be brought into court and identified by affidavit, with the will as an exhibit thereto, or by parol testimony at the time the application is made.

Every person making, or intending to make, an application to a district court under this section to have the will of a deceased person proved, which will is deposited in another district court, is entitled to procure the latter court to transmit the said will to the court to which application is to be made, for the purpose of such application.

Application to be made on affidavits.

Also the application must be supported by sufficient evidence either in the shape of affidavits of facts, with the will as an exhibit thereto or of oral testimony, proving that the will was duly executed according to law, and establishing the character of the petitioner according to his claim.

Affidavit of no opposition.

525 If the petitioner has no reason to suppose that his application will be opposed by any person, he may file with his petition an affidavit to that effect, and may omit to name any person in his petition as respondent.

Court if satisfied with proof, to make order *nisi* declaring will proved. Citations.

526 Upon the application being made, if the court is of opinion that the evidence adduced is sufficient to afford *primâ facie* proof of the due making of the will and of the character of the petitioner, it shall make an order *nisi* declaring the will to be proved, which order shall be served upon the respondent, if any, and upon such other person as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

Order *nisi* to direct probate.

527 If the applicant claims as the executor or one of the executors of the will, and asks that probate may be issued to him, the order *nisi* shall declare that he is executor, and shall direct the issue of probate to him accordingly.

Grant of administration with copy of will annexed.

528 If the applicant claims in any other character than that of executor, and asks that the administration of the deceased's property be granted to him, then the order *nisi* shall include a grant to the applicant of a power to administer the deceased's property according to the will, with a copy of the will annexed.

When court may make order absolute in the first instance.

529 In the case of an application for probate if no respondent is named in the petition, the court may in its discretion make the order absolute in the first instance.

Mode of application and proof for grant of administration in absence of a will.

530 Every application to the district court for grant of administration of a deceased person's property, where the deceased has died without making a will, or where the will cannot be found, shall be made on petition by way of summary procedure, which petition shall set out in the numbered paragraphs prescribed by section 524 the relevant facts of the absence of the will, the death of the testator, and the heirs of the deceased, to the best of the petitioner's knowledge; the petition shall also show the character in which the petitioner claims and the facts which justify his doing so.

The application shall also be supported by sufficient evidence, either in the shape of affidavits of facts or of oral testimony, to afford *primâ facie* proof of the material allegations in the petition, and shall name the next of kin of the deceased as respondents.

Court declaring petitioner's status to make order *nisi* for issue of grant.

Citation.

531 Upon the application for grant of administration being made, if the court is of opinion that the material allegations of the petition are proved, it shall make an order *nisi* declaring the petitioner's status accordingly, and making the grant prayed for, which order shall be served upon the respondent and upon such other persons as the court shall think fit to direct, and shall come on for final hearing and disposal on a day to be named therein.

Order *nisi* to be advertised.

532 In all cases of application for the grant of the administration of the deceased's property, whether with or without a will, the court shall, whether a respondent is named in the petition or not, direct the order *nisi* to be advertised in the *Gazette*, and twice in a local paper before the day of final hearing: the paper to be selected by the court with the object that notice of the order should reach all persons interested in the administration of the deceased's property. Provided that the court may in its discretion direct such other mode of advertisement in lieu of such publication as to it seems sufficient.

At final hearing on objection, court shall frame issues.

533 If on the day appointed for final hearing, or on the day to which it may have been duly adjourned, the respondent or any person upon whom the order *nisi* has been directed to be served, or any person then appearing to be interested in the administration of the deceased's property, satisfies the court that there are grounds of objection to the application, such as ought to be tried on *vivâ voce* evidence, then the court shall frame the issues which appear to arise between the parties, and shall direct them to be tried on a day to be then appointed for the purpose under section 386.

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534 If at the final hearing, or on the determination of the issues thus framed, it shall appear to the court that the *primâ facie* proof of the material allegations of the petition has not been rebutted, then the order *nisi* shall be made absolute, and probate or grant of administration with the will annexed, or grant of administration only, as the case may be, shall issue accordingly, subject to the conditions hereinafter prescribed. If, on the other hand, it shall then appear to the court that the *primâ facie* proof of any material allegations in the petition has been rebutted, the order *nisi* shall be discharged, and the petition dismissed. And in the event of the respondent or objector having at such hearing or trial of issues established his right to have probate or grant of administration of the deceased's estate issued to him instead of to the petitioner, then the court shall further make an order to that effect in his favour.

When order *nisi* shall be made absolute; and when discharged.

Provided, however, that the dismissal of the petition shall not be a bar to a renewal of the application by the petitioner as long as grant either of probate of the deceased's will, or of administration of his property, shall not have been made, either on the occasion of this application or subsequently thereto, to some other person than the petitioner.

Proviso.

535 At any time after the filing of a petition in a district court, asking to have the will of a deceased person proved, or that the grant of probate thereof or of administration of a deceased person's property be made, and before the final hearing of the petition, it shall be competent to any person, interested in the said will or in the said deceased person's property or estate, though not a respondent on the face of the petition, to intervene, by filing in the same court a *caveat* against the allowing of the petitioner's claim or a notice of opposition thereto, and any order *nisi* which may be made upon such petition shall be served upon such objector as if he had been originally named a respondent in the petition.

Who may file a *caveat*.

Effect thereof.

536 In any case where probate of a deceased person's will has issued on an order absolute in the first instance, or a grant of administration of a deceased person's property has been made, it shall be competent to the district court to recall the said probate or grant of administration, and to revoke the grant thereof, upon being satisfied that the will ought not to have been held proved, or that the grant of probate or of administration ought not to have been made; and it shall also be competent to the district court to recall the probate or grant of administration at any time upon being satisfied that events have occurred which render the administration thereunder impracticable or useless.

Power of district court to recall or revoke probate or grant of administration.

537 All applications for the recall or revocation of probate or grants of administration shall be made by petition, in pursuance of the rules of summary procedure hereinbefore prescribed; and no such application shall be entertained unless the petitioner shows in his petition that he has such an interest in the estate of the deceased person as entitles him in the opinion of the court to make such application.

Applications therefor to be by petition.

Inventory and valuation.

538 In every case where an order absolute has been passed by a district court declaring any person entitled to have issued to him probate of a deceased person's will, or grant of administration of a deceased person's property, it shall be the duty of the said person, executor, or administrator, in whose favour such order is made, to take the oath of an executor or administrator according to the form prescribed in schedule II. hereto, and thereafter to file in court, within a time to be appointed therefor in the order, an inventory of the deceased person's property and effects, with a valuation of the same, such inventory and valuation to be verified on oath or affirmation by the said executor or administrator in the form 92 given in the said schedule, and where the court requires it to enter into a bond with two good and sufficient sureties in the form 90 given in the said schedule, for the due administration of the deceased person's property.

Security.

The bond so entered into shall render the sureties responsible in any suit brought for the administration of the deceased person's property for all deficiencies, depreciation, or loss of that property attributable to the default of their principal, and liable to make good the same to the same extent and in like manner as if the said default were their own, subject, however, to the conditions of the bond in that behalf.

Limited probate and administration.

539 It is competent to the district court to make a grant of probate or a grant of administration, limited either in respect to its duration, or in respect to the property to be administered thereunder, or to the power of dealing with that property which is conveyed by the grant in the following cases:

(*a*) When the original will of the deceased person has been lost since the testator's death, but a copy has been preserved, probate of that copy may be granted, limited until the original be brought into court.

(*b*) In the like event, and with the like limitation, if no copy has been preserved, probate of a draft will may be granted, or if in addition no draft is available, then probate of the contents or of the substance and effect of the will, so far as they can be established by evidence, may be granted.

(*c*) When the original will is in the hands of some person residing out of the island, who cannot be compelled to give it up to the executor, and if the executor produces a copy, then probate of that copy may be granted, limited until the original be brought into court. If, however, the will has been duly proved out of the island, probate may be granted to the executor on a proper exemplification of the foreign probate without any limitation in the grant.

(*d*) If the sole executor of a will resides, or if there are more executors than one and all the executors reside, out of the island, or such of the executors as reside in the island decline to act, then the court

may grant administration with copy of the will annexed to any person within the island, as attorney of the executor or of the executors, who shall be appointed for that purpose by power of attorney, the grant so made being limited for the use and benefit of the principal until the executor or one of the executors comes in and obtains probate for himself. If the document admitted to proof in this case be a copy of or substitute for the original, on account of the original itself not being forthcoming by reason of one of the just-mentioned causes, the grant shall further be limited until the original is brought into court. Provided also, that if the person applying for the grant is not the attorney of all the executors, where there are more than one, the grant of administration shall not be made to him until the remaining executors have declined to act.

(*e*) In the case of a will, and there being no executor within the island willing to act, grant of administration with copy of the will annexed may be made to the attorney of an absent residuary legatee, or heir, limited until the principal shall come in and obtain administration for himself; or in the like case, the grant may be made to the guardian of a minor residuary legatee, within the island, limited during the minority, or to the manager of the estate of a lunatic residuary legatee within the island, limited during the lunacy.

(*f*) In the case of intestacy, grants of administration of the deceased person's property may be made, limited in like manner to the guardian of a minor heir or to the manager of the estate of a lunatic heir.

(*g*) The court may grant probate or administration limited to any particular property or for any particular purpose, in any case where it considers that a larger grant is unnecessary.

In all the foregoing cases, the material and relevant facts necessary to justify the court in making the limited grant must be set out in the petition of application, and must be established by *primâ facie* evidence before the order is made, as is prescribed in section 524.

Power of administration when not limited.

540 If no limitation is expressed in the order making the grant, then the power of administration, which is authenticated by the issue of probate, or is conveyed by the issue of a grant of administration, extends to every portion of the deceased person's property, movable and immovable, within this colony, or so much thereof as is not administered, and endures for the life of the executor or administrator or until the whole of the said property is administered, according as the death of the executor or administrator, or the completion of the administration, first occurs.

Court may dispense with security.

541 In all cases of the issue of probate security shall not be required, unless for some special reason the court deems that security is absolutely necessary for the protection of the estate ; and in cases where the grant of administration is limited in regard to the dealing with the property which is the subject thereof, it shall be within the discretion of the court to dispense with the giving of the bond under section 538 ; and in all cases the court may limit the amount secured by the bond to the value of the movable property, which appears to the court likely to come into the hands of the administrator and to be liable to misappropriation. Provided that every order, dispensing with the bond or limiting the amount to be secured thereby in cases of administration, or requiring security in cases of probate, shall adjudicate upon the facts upon which the court intends it to rest.

Proviso.

Person dying intestate, death to be reported by next of kin.

542 When any person shall die in Ceylon without leaving a will, it shall be the duty of the widow, widower, or next of kin of such person, if such person shall have left property in Ceylon amounting to or exceeding in value one thousand rupees, within one month of the date of his death to report such death to the court of the district in which he shall have so died, and at the same time to make oath or affirmation or produce an affidavit verifying the time and place of such death, and stating if such is the fact that the intestate has left property within the jurisdiction of that or any other (and in that event, what) court, and the nature and value of such property.

Penalty for neglect.

543 Every person made liable to report any death under, or to furnish any information required by, section 542, who shall wilfully omit to report such death or to furnish such information within the time therein prescribed therefor, shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees.

Who may apply for administration in case of intestacy.

544 In any case where a person is so reported to have died intestate, and also in any case in which the applicant produces an order of the Supreme Court appointing any court to have sole testamentary jurisdiction over the estate or effects of any person who has died out of Ceylon intestate as to any property in Ceylon, any person interested in having the estate of such intestate administered may apply to such court for grant to himself of letters of administration ; and the court shall have power, having regard, where there is a conflict of claims, to the provisions of section 523, to appoint such person administrator.

In event of no application, court may appoint.

545 In case no such person shall apply for letters of administration, and it appears to the court necessary or convenient to appoint some person to administer the estate or any part thereof, it shall be lawful for the court in its discretion, and in every such case where the estate amounts to or exceeds in value one thousand rupees it shall be obligatory on such court, to appoint some person, whether he would under ordinary circumstances be entitled to take out administration or otherwise, to administer the estate ; and

Compulsory, where estate is over one thousand rupees.

all the provisions of sections 519 to 521, both inclusive, shall apply, so far as the same can be made applicable, to any such appointment.

Issue of letters *ad colligenda.*

546 If any person shall die leaving property in the island, the judge of the court of any district in which such property shall be situate shall, on the facts being verified to his satisfaction and it being made to appear that there is not resident, within the local limits of his jurisdiction, some next of kin or other person entitled to administration of the estate of the person so dying, issue letters *ad colligenda* in the form 91 in the schedule II. hereto annexed, to one or more responsible persons to take charge of such property until the same shall be claimed by some executor or administrator lawfully entitled to administer the same.

No action maintainable to recover property of testator or intestate over one thousand rupees unless probate or administration has been taken out.

Transfer of such property, where an offence.

Penalty.

547 No action shall be maintainable for the recovery of any property, movable or immovable, in Ceylon, belonging to or included in the estate or effects of any person dying testate or intestate in or out of Ceylon, where such estate or effects amount to or exceed in value the sum of one thousand rupees, unless grant of probate or letters of administration duly stamped shall first have been issued to some person or persons as executor or administrator of such testator or intestate: and in the event of any such property being transferred without such probate or administration being so first taken out, every transferor and transferee of such property shall be guilty of an offence, and liable to a fine not exceeding one thousand rupees; and in addition to any fine imposed under the provisions of this section it shall be lawful for the Crown to recover from such transferor and transferee, or either of them, such sum as would have been payable to defray the cost of such stamps as would by law have been necessary to be affixed to any such probate or letters of administration. And the amount so recoverable shall be a first charge on the estate or effects of such testator or intestate in Ceylon, or any part of such estate or effects, and may be recovered by action accordingly.

Probate when executor is appointed for limited purpose.

548 When a person is appointed executor of a will for a particular purpose only of the will, and not executor of the will generally, probate will be granted to him limited for that purpose only.

Fresh grant, when allowed.

549 When a sole executor or a sole surviving executor to whom probate has been granted, or a sole administrator or a sole surviving administrator to whom a grant of administration has been made, dies leaving a part of the deceased's property unadministered, then a fresh grant of administration may be made in respect of the property left unadministered, according to the rules hereinbefore prescribed for a first grant.

Rectification of errors in grant.

550 Errors in names and descriptions, or in setting forth the time and place of the deceased's death or the purpose in a limited grant, may be rectified by the court, and the grant of probate or letters of administration may be altered and amended accordingly.

Compensation of executors and administrators.

551 Compensation shall be allowed to executors and administrators by way of commission as well on property not sold but retained by the heirs, as on property sold by such executors and administrators, at such rate not exceeding three per cent., and on cash found in the estate and on property specially bequeathed, at such rate not exceeding one and a half per cent. as the court shall, after taking into consideration the circumstances of each particular case with reference to the trouble incurred by such executors or administrators, determine. In no case shall a larger sum than five thousand rupees be allowed to any executor or administrator as such compensation, unless it shall be made apparent to the court that such unusual trouble has fallen upon him as to entitle him, in the opinion of the court, to receive further remuneration.

Compensation of several executors.

552 Each executor or administrator shall be entitled to the full compensation allowed by law to a sole executor or administrator, unless there are more than three, in which case the compensation to which three would be entitled shall be apportioned among them all according to the services rendered by them respectively, and a like apportionment shall be made in all cases where there shall be more than one executor or administrator. But where the will provides a specific compensation for an executor or administrator, he shall not be entitled to any allowance other than that so provided, unless he files in court a written renunciation of the specific compensation.

Filing of the account, and payment into court.

553 Every executor and administrator shall file in the district court on or before the expiration of twelve months from the date upon which probate or grant of administration issued to him, a true account of his executorship or administration, as the case may be, verified on oath or affirmation with all receipts and vouchers attached, and may at the same time pay into court any money which may have come to his hands in the course of his administration to which any minor or minors may be entitled.

Failure of executor or administrator to administer within the year to make him liable for interest.

554 If any executor or administrator shall fail to pay over to the creditors, heirs, legatees, or other persons the sums of money to which they are respectively entitled, within one year after probate or administration granted, such executor or administrator shall be liable to pay interest out of his own funds for all sums which he shall retain in his own hands after that period, unless he can show good and sufficient cause for such detention.

CHAPTER XXXIX.

Actions in Lunacy.

Definition of "lunatic."

555 The word "lunatic" as used in this Ordinance shall, unless the contrary appears from the context, mean every person found by due course of law to be of unsound mind and incapable of managing his affairs.

556 Whenever any person who is possessed of property is alleged to be a lunatic, the district court within whose jurisdiction such person is residing may, upon such application as is hereinafter mentioned, institute an inquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs. District court to institute inquiry.

Application for such inquiry may be made on petition in the way of summary procedure by any relative of the alleged lunatic, or by the provincial superintendent of police, or at the instance of the Attorney-General, or, if the property of the alleged lunatic consists in whole or in part of land or of any interest in land, by the government agent or assistant government agent of the district in which it is situate. Application for, how to be made.

557 When the district court on such application being made to it is not satisfied by affidavit or other evidence that such inquiry as aforesaid ought to be instituted, it shall dismiss the petition. May be dismissed

558 When the district court on any such application being made to it is satisfied by affidavit or other sufficient evidence that such inquiry as aforesaid ought to be instituted, it shall pass an order to that effect and then appoint a time and place for holding the inquiry. or proceeded with.

559 As soon as such order shall have been passed, the district court shall cause a copy of the petition and of the order made thereon to be served upon the alleged lunatic. If it shall appear that the alleged lunatic is in such a state that personal service on him would be ineffectual, the court may direct such substituted service of the petition and order as it shall think proper. The court may also direct a copy of such petition and order to be served upon any specified relative of the alleged lunatic. Proceeding in such case.

560 The district court may also at any time before or pending the inquiry, require the alleged lunatic to attend at such convenient time and place as it may appoint, for the purpose of being personally examined by the court or by any person from whom the court may desire to have a report of, or testimony as to the mental capacity and condition of such alleged lunatic. The court may likewise make an order authorizing any person or persons therein named to have access to the alleged lunatic for the purpose of a personal examination. Alleged lunatic may be required to attend.

561 The district court, if it think fit, may appoint two or more persons to act as assessors to the court in the said inquiry. Assessors.

562 The issue to be tried on such inquiry shall be, whether the alleged lunatic is or is not of unsound mind and incapable of managing his affairs. Issue.

563 The trial of this issue shall be effected by *vivâ voce* examination and cross-examination of witnesses, as nearly as may be as is hereinbefore directed for the trial of the matter of an ordinary civil action; and the inquiry, whether held in court or in a private house, shall be public. Trial of to be public.

Lunatic to be present.

564 The alleged lunatic shall be present at the inquiry and shall take part as a party defendant therein either by his proctor or counsel or in person, unless his state of health, or his behaviour, is such as to render either his being present or his participating in the proceedings unfitting or unseemly.

Any relative of the alleged lunatic may also, if the court thinks fit, appear and take part in the inquiry on behalf of the alleged lunatic.

Adjudication on the issue.

Costs.

565 Upon the completion of the inquiry, the court shall adjudicate whether the alleged lunatic is or is not of unsound mind and incapable of managing his affairs. And at the same time the court may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made, or by the alleged lunatic, if he be adjudged to be of sound mind, or out of his estate, if he be adjudged of unsound mind and incapable of managing his affairs, or otherwise, as it may think proper.

When petition to be dismissed.

566 When a person has been adjudged not to be of unsound mind and not incapable of managing his affairs, the court shall dismiss the petition.

Manager to be appointed.

567 When a person has been adjudged to be of unsound mind and incapable of managing his affairs, the district court shall appoint a manager of the estate. Any near relative of the lunatic or any other suitable person may be appointed manager.

Guardian of person.

568 Whenever a manager of the estate of a lunatic is appointed by the district court, the court shall appoint a fit person to be guardian of the person of the lunatic. The manager may be appointed guardian; provided always that the heir-at-law of the lunatic shall not in any case be appointed guardian of his person.

Payment to.

569 If the person appointed to be manager of the estate of a lunatic, or the person appointed to be guardian of a lunatic's person, shall be unwilling to discharge the trust gratuitously, the court may fix such allowance or allowances to be paid out of the estate of the lunatic as, under the circumstances of the case, may be thought suitable.

Duties of.

570 The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance. When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as shall be fixed by the court, either at the time when the guardian is appointed or afterwards, on an application made by such guardian by petition in the way of summary procedure, for the maintenance of the lunatic and of his family.

Powers of.

571 Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic; and may collect and pay all just

claims, debts, and liabilities due to or by the estate of the lunatic. But no such manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immovable property for any period exceeding five years, without an order of the district court previously obtained.

Restriction.

572 Every person appointed by the district court to be manager of the estate of a lunatic shall, within a time to be fixed by the court, deliver in court an inventory of the immovable property belonging to the lunatic, and of all such movable property, sums of money, goods, and effects as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such manager shall furnish to the court annually, within three months of the close of the year, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. If any relative of the lunatic, or the Attorney-General, by petition to the court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the court may summon the manager and inquire summarily into the matter and make such order thereon as it shall think proper.

Inventory.

Account.

573 All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate shall be paid into the kachchéri on account of the estate, and shall be dealt with thereafter in such manner as is prescribed by law in the case of suitors' deposits.

Excess over expenditure, to be paid into kachchéri.

574 It shall be lawful for any relative of a lunatic to sue for an account from any manager appointed under this Ordinance, or from such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Relative may sue for account.

575 The district court, for any sufficient cause, may on the application of the guardian or of a relative of the lunatic or of the Attorney-General, provincial superintendent of police, or (where the property of the lunatic consists in whole or in part of land, or of any interest in land) of the government agent or assistant government agent, made by petition in the way of summary procedure, remove any manager appointed by the court, and may appoint any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all moneys received or disbursed by him. The court may also, for any sufficient cause, in like manner remove any guardian appointed by the court.

Manager or guardian how to be removed

576 The district court may on any application made to it by a relative of the lunatic or a public officer under section 575 impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or

Punishment for neglect or refusal to account.

refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of court, and may also commit him to close custody until he shall deliver such accounts or property.

Where not necessary, court need not appoint manager.

577 If it appears to the district court, having regard to the situation and condition in life of the lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a manager of the estate as hereinbefore provided, the court may, instead of appointing such manager, order that the property if money, or if of any other description the proceeds thereof, when realized in such manner as the court shall direct, be paid to such persons as the court may think fit, to be applied for the maintenance of the lunatic and his family.

Further inquiry when lunatic so found is alleged to have recovered.

578 When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person or any other person acting on his behalf, or having or claiming any interest in respect of his estate, shall represent by petition to the district court, or if the court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the court may institute an inquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs. The inquiry shall be conducted in the manner provided in section 560 and the four following sections of this Ordinance; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the court shall make an order for his estate to be delivered over to him, and such order shall be final.

Saving of lunacy Ordinance.

579 In all cases in which this chapter is applicable, the procedure herein provided shall be followed, anything in Ordinance No. 1 of 1873 to the contrary notwithstanding.

Appeal to Supreme Court.

580 Every order made by a district court under the provisions of this chapter shall be subject to an appeal to the Supreme Court, and such appeal may be prosecuted by, or at the instance of, the person suspected or adjudged to be of unsound mind, or of any relative or friend of his, or of any medical practitioner who shall have certified or testified to his state of mind; and the Supreme Court shall take cognizance of such appeal, and deal with the same as an appeal from an interlocutory order of the district court, and make such order thereon as to the said court shall seem fit. And it shall be the duty of the district court to conform to and execute such order.

Proceedings exempt from stamp and schedule duty.

581 No stamp duty shall attach or be payable for any application, process, or other document filed in court under the provisions of this chapter. Nor shall it be necessary to attach schedules to processes issued to the fiscal under such provisions.

CHAPTER XL.

Actions for the Appointment of Guardians.

Certificate of right to have charge of minor's property.

582 Every person who shall claim a right to have charge of property in trust for a minor, under a will or deed, or by reason of nearness of kin, or otherwise, may apply to the district court for a certificate of curatorship; and no person shall be entitled to institute or defend any action connected with the estate of a minor, of which he claims the charge, until he shall have obtained such certificate. Provided that when the property is below the value of one thousand rupees, or for any other sufficient reason, any court having jurisdiction may allow any relative of a minor to institute or defend an action on his behalf, although a certificate of curatorship has not been granted to such relative. And provided further that any such person so claiming to have charge of any such property under the provisions of a will of which probate shall have been duly granted, may institute or defend any such action without having obtained such certificate.

Explanation.—A person to whom letters of administration of a deceased person's estate have been granted under chapter XXXVIII. of this Ordinance does not thereby obtain a right to have charge, within the meaning of this section, of such portion or share of his deceased's estate, if any there be, as descends to a minor heir.

Application for appointment of person to have charge of property or person of minor.

583 Any relative or friend of a minor, in respect of whose property such certificate has not been granted, may apply by petition in the way of summary procedure to the district court, to appoint a fit person to take charge of the property and person or of either property or person of such minor.

To be made in district where minor resides.

584 If the property is situate in more than one district, any such application as aforesaid shall be made to the district court of the district in which the minor at the time of the application resides.

Charge of property of minor to whom to be granted.

585 If it shall appear that any person claiming a right to have charge of the property of a minor is entitled to such right by virtue of a will or deed, and is willing to undertake the trust, the court shall grant a certificate of curatorship to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust and there is any near relative of the minor who is willing and fit to be entrusted with the charge of his property, the court may grant a certificate to such relative.

Same person may be appointed guardian of person.

The court may also, if it think fit (unless a guardian have been appointed by the father), appoint such person as aforesaid or such relative, or any other relative or friend of the minor, to be guardian of the person of the minor.

Court may call upon headman to report on qualification.

The court may call upon any headman for a report on the character and qualification of any relative or friend of the minor, who may be desirous or willing to be entrusted with the charge of the property or person of such minor, and who resides in the division.

When charge of property may be granted to any fit person.

586 If no title to a certificate is established to the satisfaction of the court by a person claiming under a will or deed, and if there is no near relative willing and fit to be entrusted with the charge of the property of the minor, and the court shall think it necessary for the interest of the minor that provision should be made by the court for the charge of the property and person of such minor, the court may grant a certificate to any fit person whom the court may appoint for the purpose.

Guardian to have charge of the person and maintenance; to be appointed at the same time;

his allowance.

587 Whenever the court shall grant a certificate of curatorship to the estate of a minor to any person under the last section, it shall at the same time appoint a guardian to take charge of the person and maintenance of the minor. The person to whom a certificate of curatorship has been granted may be appointed guardian, provided he would not be the legal heir of the minor, if the minor then died. If the person appointed to be guardian be unwilling to discharge the trust gratuitously, the court may assign him such allowance, to be paid out of the estate of the minor, as under the circumstances of the case it may think suitable. The court may also fix such allowance as it may think proper for the maintenance and education of the minor; and such allowance and the allowance of the guardian (if any) shall be paid to the guardian by the other person as aforesaid. In any case in which the court is satisfied that it will be for the interest of the minor, it may direct the raising of such allowance out of the *corpus* of the estate, by mortgage or sale or such other mode of realization as it thinks fit.

Costs of inquiries.

588 In all inquiries held by the district court under this chapter, the court may make such order as to the payment of costs by the person on whose application the inquiry was made, or out of the estate of the minor, or otherwise, as it may think proper.

Inventory.

Accounts.

Every curator other than one deriving title under a will or deed, to whom a certificate shall have been granted under this chapter, shall, within a time to be fixed by the court, file in court an inventory of the property belonging to the minor, and shall also twice every year, namely, within one month from January 1 and July 1, respectively, in each year, file an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate and the balance in hand.

Impeachment of the inventory and accounts.

589 Any relative of the minor or the minor himself by a next friend or the Attorney-General may, by petition and by way of summary procedure, impeach and falsify the correctness of the said inventory and periodic accounts, or complain of delay in the filing of them: and the court may on any such application make such order as it shall think proper.

Any relative of minor may sue curator for accounts.

590 It shall be lawful for any relative of a minor, with the leave of the court, or the minor himself by a next friend, at any time during the continuance of the minority, to sue for an account from any person to whom a certificate shall

have been granted under the provisions of this Ordinance, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Recall of the certificates.

591 The district court, for any sufficient cause shown on petition by way of summary procedure preferred by the guardian, or by a relative, or by a next friend of the minor, or by the Attorney-General, may recall any certificate granted under this chapter and may grant a certificate to any other person; and may compel the person whose certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all moneys received and disbursed by him. The court may also for sufficient cause in like manner remove any guardian appointed by the court.

Resignation and discharge of curator of property or guardian of person of minor.

592 The district court may permit any person to whom a certificate shall have been granted under this Ordinance, and any guardian appointed by the court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all moneys received and disbursed by him, and making over the property in his hands.

The application to be discharged from the trust shall be made by petition in the way of summary procedure, in which petition a near relative of the minor or the Attorney-General shall be named a respondent; and it shall be competent to the court to direct that any other person be made a respondent.

Allowance of curator.

593 Every curator other than one deriving title under a will or deed, to whom a certificate shall have been granted under this chapter, if he is not willing to discharge the trust gratuitously shall be entitled to receive such allowance, to be paid out of the minor's estate, as the district court shall by order, made when the curator is appointed or afterwards on an application made by the curator by petition in the way of summary procedure, think fit to direct.

Minor's education.

594 Every guardian appointed by the district court under this chapter, who shall have charge of any minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such minors shall be vested in the district court.

CHAPTER XLI.

Actions for Appointment and Removal of Trustees.

Trustees.

595 Applications to the district court for the exercise of its jurisdiction for the appointment or removal of a trustee, and not asking any further remedy or relief, may be made by petition in the way of the summary procedure hereinbefore prescribed.

CHAPTER XLII.

Matrimonial Actions.

Procedure in matrimonial actions.

596 In all actions for divorce *à vinculo matrimonii*, or for separation *à mensâ et thoro*, or for declaration of nullity of marriage, the pleadings shall be by way of plaint and answer, and such plaint and answer shall be subject to the rules and practice by this Ordinance provided with respect to plaints and answers in ordinary civil actions, so far as the same can be made applicable, and the procedure generally in such matrimonial cases shall (subject to the provisions contained in this chapter) follow the procedure hereinbefore set out with respect to ordinary civil actions.

Court of district in which petitioner resides to have jurisdiction

597 Any husband or wife may present a plaint to the district court within the local limits of the jurisdiction of which he or she, as the case may be, resides, praying that his or her marriage may be dissolved on any ground for which marriage may, by the law applicable in this colony to his or her case, be dissolved.

Co-defendant.

598 Upon any such plaint presented by a husband, in which the adultery of the wife is the cause or part of the cause of action, the plaintiff shall make the alleged adulterer a co-defendant to the said action, unless he is excused from so doing on one of the following grounds, to be allowed by the court upon an application for the purpose:

(1) That the defendant is leading the life of a prostitute, and that the plaintiff knows of no person with whom the adultery has been committed;

(2) That the name of the alleged adulterer is unknown to the plaintiff, although he has made due efforts to discover it;

(3) That the alleged adulterer is dead;

and it shall be lawful in any such plaint to include a claim for pecuniary damages against such co-defendant.

Affidavit where co-defendant is excused.

599 The prayer to be excused from making the alleged adulterer a co-defendant, and the allegations of fact upon which it is founded, supported by affidavit of fact or other sufficient evidence, shall be embodied in the plaint.

Connivance. condonation, counter-charge.

600 Upon the trial had upon the footing of any such plaint for the dissolution of a marriage, the court shall satisfy itself, not only as to the facts alleged, but also whether or not the plaintiff has been in any manner accessory to or conniving at the act or conduct which constitutes the ground upon which the dissolution of marriage is prayed for in the plaint, or has condoned the same, and shall also inquire into any counter-charge which may be made by the defendant or co-defendant against the plaintiff.

Plaint, when to be dismissed.

601 In case the court, on the evidence in relation to any such plaint, is not satisfied that the plaintiff's case has been proved, or finds that the plaintiff has, during the marriage, been accessory to or conniving at the act or conduct which

constitutes the ground upon which the dissolution of marriage is prayed for, or has condoned the same, or that the plaint is presented or prosecuted in collusion with either of the defendants, then and in any of the said cases the court shall dismiss the plaint.

Otherwise decree to be passed.

602 In case the court is satisfied on the evidence that the case of the plaintiff has been proved, and does not find that the plaintiff has been in any manner accessory to or conniving at the act or conduct which constitutes the ground upon which the dissolution of marriage is prayed for, or has condoned, the same, or that the plaint is presented or prosecuted in collusion with either of the defendants, the court shall pronounce a decree declaring such marriage to be dissolved in the manner and subject to all the provisions and limitations in sections 604 and 605 hereinafter made and declared.

Proviso.

Provided that the court shall not be bound to pronounce such decree if it finds that the plaintiff has, during the marriage, been guilty of adultery, or if the plaintiff has, in the opinion of the court, been guilty of unreasonable delay in presenting or prosecuting such plaint, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

No adultery shall be deemed to have been condoned within the meaning of this chapter unless where conjugal cohabitation has been resumed or continued.

Defendant, when entitled to relief

603 In any action instituted for dissolution of marriage, if the defendant opposes the relief sought on any ground which would have enabled him or her to sue as plaintiff for such dissolution, the court may in such action give to the defendant on his or her application the same relief to which he or she would have been entitled in case he or she had presented a plaint seeking such relief

Decree to be decree *nisi*.

604 Every decree for dissolution of marriage shall, in the first instance, be a decree *nisi*, not to be made absolute till after the expiration of not less than three months from the pronouncing thereof, or such longer period as the Supreme Court by general or special order from time to time directs.

During that period any person shall be at liberty, in such manner as the Supreme Court by general or special order from time to time directs, and in the absence of any such order, by petition on summary procedure to which the plaintiff and the defendants shall, if reasonably possible, be made respondents, to show cause against the said decree being made absolute by reason of the same having been obtained by collusion or by reason of material facts not having been brought before the court. On cause being so shown, the court shall deal with the case by reversing the decree *nisi*, or by requiring further inquiry, or otherwise as justice may demand.

Costs.

The court may order the costs of counsel and witnesses, and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Decree when to be made absolute.

605 Whenever a decree *nisi* has been made and no sufficient cause has been shown why the same should not be made absolute as in the last preceding section provided within the time therein limited, such decree *nisi* shall on the expiration of such time be made absolute.

Procedure on suspicion of collusion during progress of action in district court.

606 During the progress of the action, any person suspecting that any parties to the action are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the Supreme Court by general or special order from time to time directs, and in the absence of any such order, by petition on summary procedure supported by affidavit of fact or other sufficient evidence, to apply to the district judge to take such steps in respect of the alleged collusion as may be necessary to enable him to make a decree in accordance with the justice of the case.

Actions of nullity of marriage.

607 Any husband or wife may present a plaint to the district court within the local limits of the jurisdiction of which he or she (as the case may be) resides, praying that his or her marriage may be declared null and void.

Such decree may be made on any ground which renders the marriage contract between the parties void by the law applicable to this colony.

Court of district in which applicant resides to have jurisdiction.

608 Application for a separation *â mensâ et thoro* on any ground on which by the law applicable to this colony such separation may be granted, may be made by either husband or wife by plaint to the district court, within the local limits of the jurisdiction of which he or she, as the case may be, resides, and the court, on being satisfied on due trial of the truth of the statements made in such plaint, and that there is no legal ground why the application should not be granted, may decree separation accordingly.

Separated wife's property.

609 In every case of such separation under this chapter the wife shall, from the date of the sentence, and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, devolve as the same would have devolved if she had died unmarried.

Proviso.

Provided that if any such wife again cohabits with her husband, all such property as she may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

610 In every case of such separation under this chapter the wife shall, whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceedings; and her husband shall not be liable in respect of any contract, act, or costs entered into, done, omitted, or incurred by her during the separation.

Separated wife's contracts and rights to sue.

Provided that where, upon any such separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessaries supplied for her use to the persons who supplied them.

Proviso 1.

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

Proviso 2.

611 Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of separation has been pronounced, may, at any time thereafter, present a petition to the court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence at the hearing, and that there was reasonable excuse for such absence, and also for the alleged desertion, where desertion was the ground of such decree.

When decree for separation may be reversed by the court which made it.

Such petition shall be deemed and shall be dealt with by the court as a plaint in a regular action, and the party in whose favour the decree of separation sought to be reversed was passed shall be made a defendant therein. And the court may, after trial in regular course of procedure, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly, but such reversal shall not prejudice or affect the rights or remedies which any other person would have had in case it had not been decreed, in respect of any debts, contracts, or acts of the wife incurred, entered into, or done between the time of the sentence of separation and of the reversal thereof.

612 Whenever in any plaint presented by a husband the alleged adulterer has been made a co-defendant, and the adultery has been established, the court may order the co-defendant to pay the whole or any part of the costs of the proceedings in addition to any damages which may be awarded, where such damages have been claimed.

Co-defendant may be ordered to pay costs.

Provided that the co-defendant shall not be ordered to pay the plaintiff's costs, nor shall any damages be awarded—

(1) If the defendant was at the time of the adultery living apart from her husband and leading the life of a prostitute; or

(2) If the co-defendant had not at the time of the adultery reason to believe the defendant to be a married woman.

Intervenient under section 606 may be ordered to pay costs.

613 Whenever any application is made under section 606, the court if it thinks that the applicant had no grounds, or no sufficient grounds for intervening, may order him to pay the whole or any part of the costs occasioned by the application.

Alimony *pendente lite.*

614 In any action under this chapter, whether it be instituted by a husband or a wife, the wife may present a petition for alimony pending the action. Such petition shall be preferred and dealt with as of summary procedure, and the husband shall be made respondent therein; and the court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the action as it may deem just.

Proviso.

Provided that alimony pending the action shall in no case be less than one-fifth of the husband's average net income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

Permanent alimony.

615 The court may, if it thinks fit, on any decree absolute declaring a marriage to be dissolved, or on any decree of separation obtained by the wife, order that the husband shall, to the satisfaction of the court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as, having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable; and for that purpose may cause a proper instrument to be executed by all necessary parties.

In every such case the court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support, as the court may think reasonable. Provided, that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again to revive the same order wholly or in part, as to the court seems fit.

Proviso.

Form of decree for alimony.

616 In all cases in which the court makes any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the court, and may impose any terms or restrictions which to the court seem expedient, and may from time to time appoint a new trustee if it appears to the court expedient so to do.

Court may order settlement of property:

617 Whenever the court pronounces a decree of dissolution of marriage for adultery of the wife, if it is made to appear to the court that the wife is entitled to any property, the court may, if it thinks fit, order such settlement as it

thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both.

Any instrument executed pursuant to any order of the court at the time of or after the pronouncing of a decree of dissolution of marriage, or separation, shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

618 The court, after a decree absolute for dissolution of marriage or a decree of nullity of marriage, may inquire into the existence of ante-nuptial or post-nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the court seems fit. Provided that the court shall not make any order for the benefit of the parents or either of them at the expense of the children.

and inquire into ante and post-nuptial settlements.

Proviso

619 In any action for obtaining a separation, the court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of such action, and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the said court.

Court may order maintenance of children pending action;

620 The court after a decree of separation may, upon application by way of summary procedure for this purpose, make from time to time all such orders and provisions, with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

and after decree of judicial separation;

621 In any action for obtaining a dissolution of marriage or a decree of nullity of marriage, the court may from time to time, before making its decree absolute or its decree (as the case may be), make such interim orders, and may make such provision in the decree absolute or decree, as the court deems proper with respect to the custody, maintenance, and education of the minor children, the marriage of whose parents is the subject of the action, and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the court.

and pending an action for dissolution;

622 The court after a decree absolute for dissolution of marriage or a decree of nullity of marriage, may, upon application by petition on summary procedure for the purpose, make from time to time all such orders and provisions, with respect to the custody, maintenance, and education

and after decree absolute therein

of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the said court as might have been made by such decree absolute or decree (as the case may be), or by such interim orders as aforesaid.

Adjournment and further evidence.

623 The court may from time to time adjourn the hearing of any petition or plaint under this chapter, and may of its own motion require further evidence thereon if it sees fit so to do.

Appeal.

624 All decrees and orders made by the court in any action or proceeding under this chapter shall be enforced, and may be appealed from, in the like manner as the decrees and orders of the court made in the exercise of its original civil jurisdiction are enforced, and may be appealed from under the laws, rules, and orders for the time being in force.

When parties may marry again.

625 Upon a decree *nisi* for divorce being made absolute under the provisions of this chapter, or when three months after the passing of the decree thereunder of nullity of marriage shall have elapsed, without an appeal having been taken therefrom, upon the confirmation in appeal of any such decree, but not sooner, it shall be lawful for the respective parties to the marriage to marry again as if the prior marriage had been dissolved by death.

Proviso.

Provided that no appeal to Her Majesty in Council has been presented against any such order or decree.

In the event of such an appeal having been presented, then when it has been dismissed, or when in the result thereof the marriage is required to be dissolved, but not sooner, it shall be lawful for the respective parties to the marriage to marry again, as if the prior marriage had been dissolved by death.

Protection of third parties dealing with wife after decree made and before reversal.

626 Every decree for separation or order to protect property obtained by a wife under this chapter shall, until reversed or discharged, be deemed valid, so far as necessary for the protection of any person dealing with the wife.

No reversal, discharge, or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order and of the reversal, discharge, or variation thereof.

All persons who in reliance on any such decree or order, make any payment to, or permit any transfer to be made, or act to be done by the wife who shall have obtained such decree or order, shall (notwithstanding the same may then have been reversed, discharged, or varied, or notwithstanding the separation of the wife from her husband may have ceased or may at some time since the making of the decree or order have been discontinued) be protected and indemnified as if at the time of such payment, transfer, or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued, unless at the time of the payment, transfer, or

other act such persons had notice of the reversal, discharge, or variation of the decree or order or of the cessation or discontinuance of the separation.

627 Nothing in this chapter contained shall be taken to apply to any marriage between persons professing the Mohammedan faith or to any marriage affected by the provisions of Ordinance No. 3 of 1870.

Saving of the application of this Ordinance as to certain marriages.

CHAPTER XLIII.

Interpleader Actions.

628 When two or more persons claim adversely to one another payment of the same sum of money or delivery of the same property from another person, whose only interest therein is that of a mere stakeholder, and who is ready to render it to the right owner, such stakeholder may institute an action of interpleader against all the claimants, for the purpose of obtaining a decision as to the party to whom the payment should be made or the property delivered, and of obtaining indemnity for himself.

Interpleader actions.

Provided that if any action is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute an action of interpleader.

Proviso

629 In every action of interpleader the plaint must, in addition to the other statements necessary for plaints, state—

Frame of plaint.

(*a*) That the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder ;

(*b*) The claims made by the defendants severally ; and

(*c*) That there is no collusion between the plaintiff and any of the defendants ;

and such plaint shall also be supported by an affidavit of the plaintiff verifying the statements contained therein.

630 When the thing claimed is capable of being paid into court or placed in the custody of the court, the plaintiff must so pay or place it before he can be entitled to any order in the action.

Property claimed to be deposited in court.

631 At the hearing the court may—

Procedure at the hearing.

(*a*) Declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the action :

or if it thinks that justice or convenience so require—

(*b*) Retain all parties until the final disposal of the action ; and if it finds that the admissions of the parties or other evidence enable it to do so, may—

(*c*) Adjudicate upon the title to the thing claimed ;

or else it may—

(*d*) Direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the court.

Who may not be sued in interpleader.

632 Nothing in this chapter shall be taken to enable agents to sue their principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(*a*) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader action against A and C.

(*b*) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader action against A and C.

Of the plaintiff's costs therein.

633 When the action is properly instituted, the court may provide the plaintiff's costs by giving him a charge on the thing claimed, or in some other effectual way.

Procedure where stakeholder is sued by defendant.

634 If any of the defendants in an interpleader action is actually suing the stakeholder in respect of the subject of such action, the court in which the action against the stakeholder is pending shall, on being duly informed by the court which passed the decree in the interpleader action in favour of the stakeholder, that such decree has been passed, stay the proceedings as against him, and his costs in the action so stayed may be provided for in such action ; but if and so far as they are not provided for in that action, they may be added to his costs incurred in the interpleader action.

CHAPTER XLIV.

Actions which fail for want of Jurisdiction.

Power to make order for costs notwithstanding want of jurisdiction.

635 When an action fails for want of jurisdiction in the court to entertain and determine the matter of the action on its merits, it shall, nevertheless, be competent to the court to make such order on the parties for the payment of costs as to it shall seem just ; and every such order for the payment of costs is a decree for money within chapter XX.

When want of jurisdiction caused by exclusive jurisdiction of any village tribunal, averment of jurisdiction in plaint is traversed.

636 When the want of jurisdiction is caused by reason of the exclusive jurisdiction of any village tribunal, the averment in the plaint made in pursuance of section 45 shall be considered as traversed, whether the defendant in his answer is silent in reference to it or not ; and it shall be the duty of the court to dismiss the action on this preliminary issue in bar at the earliest stage of the action whereat, by the admission of the parties or other evidence, it appears to the court that such village tribunal has exclusive jurisdiction.

637 The order of court so dismissing the action shall adjudicate upon the facts which found the jurisdiction of such village tribunal; and if not appealed against, or if, in the event of an appeal, not reversed, this order shall be conclusive evidence of jurisdiction on the same claim being made before such village tribunal.

Order of dismissal not reversed on appeal, conclusive as to jurisdiction of other court.

638 Also the decision of a village tribunal declining jurisdiction shall be conclusive evidence against such jurisdiction in an action upon the same claim brought in any other court.

And conversely

CHAPTER XLV.

Actions relating to Public Charities.

639 In case of any alleged breach of any express or constructive trust created for public charitable purposes, or whenever the direction of the court is deemed necessary for the administration of any such trust, the Attorney-General acting *ex officio*, or two or more persons having an interest in the trust, and having obtained the consent in writing of the Attorney-General, may institute an action in the court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

Actions for carrying into effect trusts for public charity.

(*a*) Removing any trustee or trustees of the charity, and, if necessary, appointing new trustees thereof;
(*b*) Vesting any property in the trustees of the charity;
(*c*) Declaring the proportions in which its objects are entitled;
(*d*) Authorizing the whole or any part of its property to be let, sold, mortgaged, or exchanged;
(*e*) Settling a scheme for its management;

or granting such further or other relief as the nature of the case may require.

CHAPTER XLVI.

Of Actions to realize Moneys due or secured upon Mortgages.

640 Every mortgagee or person entitled to bring any action for the realization of moneys secured to him upon a mortgage shall sue the mortgagor as defendant, whether such mortgagor is or is not in possession of the property mortgaged at the time of action brought.

Mortgagor to be sued whether in possession or not.

641 In every such case where the mortgagor is dead, such mortgagee or person shall be entitled to sue the executor or administrator of such deceased mortgagor.

Where mortgagor dead, executor or administrator to be sued.

642 In every such case where no executor has been appointed or no administration has been taken out to the estate and effects of such deceased mortgagor, and the property mortgaged amounts to or exceeds in value one thousand rupees, it shall be obligatory on such mortgagee or person, before proceeding with his action, to apply to the court to appoint an administrator to the estate and effects of

Where no executor or administrator, mortgagee to apply for the appointment of an administrator if mortgaged

property exceeds one thousand rupees.

Where such property under one thousand rupees, person may be appointed to represent the estate without administration.

such deceased mortgagor under the provisions of chapter XXXVIII., and any such administration may be limited or otherwise under the provisions of section 539. Provided that in every such case where the property mortgaged is under the value of one thousand rupees, the court may, on the application of such mortgagee or person, before action brought, and on its appearing to the court necessary or desirable, appoint some person to represent the estate of the deceased mortgagor for all the purposes of the action, on such notice to such persons (if any) as the court shall think fit; and the order so made and any order consequent thereon shall bind the estate of the deceased mortgagor in the same manner in all respects as if a duly constituted administrator of the deceased mortgagor had been a party to the action.

Notice to puisne incumbrancers.

643 On the issue of the summons in any action under this chapter, such mortgagee or person shall issue notice thereof in writing, to which a copy of the summons shall be annexed, to all grantees, mortgagees, lessees, and other incumbrancers whose deed of conveyance, mortgage, lease, or other incumbrance shall be of date subsequent to that of the mortgage on which such action is brought, and who shall have at any time previous to the bringing of such action notified to him in writing that they have duly registered their deeds, and shall have also furnished him with an address for the service of such notice, which shall be the same as the address furnished by them to the registrar of lands for the district in which the property is situate. Any notice mentioned in this section may be sent by post, and the production of a receipt for the registered cover under which any such notice was sent shall be sufficient proof that it was so sent. And every registrar of lands shall keep a separate book, in a form to be prescribed by the Registrar-General, in which addresses for the service of such notices shall be entered.

Application by puisne incumbrancers to be joined.

644 Any person so noticed may on the day fixed in the summons for the defendant to appear and answer apply under the provisions of section 18 to be joined as a defendant in the action. Every person so noticed not so applying to be joined as defendant, and every such grantee, mortgagee, lessee, or other incumbrancer whose deed shall not have been registered, or who shall not have furnished such address as aforesaid, shall be bound by the judgment in the action in all respects as fully as though he had been a party thereto. Provided always that the mortgage in respect of which such judgment shall be given shall have itself been duly registered, and such mortgagee or person shall have furnished an address to the registrar of lands and to every grantee, mortgagee, lessee, or other incumbrancer from whom he has received such notification as in the last preceding section mentioned. Provided, also, that the provisions of chapter XII. of this Ordinance with regard to the cure of default in appearance or pleading shall, so far as they can be made applicable thereto, apply to any case of intervention under this section.

645 In cases of actions brought to obtain realization of a mortgage or pledge, if the fiscal return to the precept for service of summons that the defendant is not to be found, and if the plaintiff shall, by his own statement, subject to punishment for contempt of court in case of his making a false statement, verify his demand to the satisfaction of the court, and further satisfy the court that, notwithstanding all reasonable effort on his part, the defendant cannot be found, a mandate of sequestration (form 98, schedule II.) shall, on the motion of the plaintiff, issue to the fiscal from the court, directing him to seize and sequester the houses, lands, goods, money, or other property which are the subject of the mortgage or pledge, and to detain or secure the same till the defendant shall appear or answer. And the fiscal shall cause due notice in writing to be served on all persons in whose possession or power such property of the defendant, whether movable or immovable, shall be, of the sequestration having issued, and requiring them to reserve and retain the same, and all issues, rents, profits, and interest accruing therefrom, to abide the further order of the court.

Sequestration may issue in certain cases.

646 The property so sequestered shall either remain under sequestration or be sold, at the discretion of the court, regard being had to the nature of such property and the interests of all parties concerned. As soon as conveniently may be after such sequestration, written notices in English and the native language or languages of the district shall be affixed at the court-house and at such other public and conspicuous places, or shall be advertised in such public newspapers as the court shall direct, stating the names and designations of the parties, the cause of action, that such sequestration has issued, the description of the property sequestered, and calling on the defendant to appear. Proclamation shall also be made two several days in open court, at such intervals as the court in its discretion shall consider fit and just towards all parties, calling on the defendant to appear on pain of the court proceeding *ex parte*.

Notice of sequestration to be published.

647 If the defendant shall appear on or before the day of the last proclamation, and shall give such security for the ultimate satisfaction of such decree as may be passed against him in the action as the court shall consider the nature of the case to require, the sequestration shall thereupon be dissolved, and the action shall proceed as in ordinary cases; and in default of his giving such security, he shall be admitted to appear and defend such action, but the property shall remain under sequestration. If the defendant shall not appear on or before such day of last proclamation, the court shall, on motion of the plaintiff, proceed to hear the case *ex parte*.

Sequestration how dissolved.

648 If the property sequestered be claimed by a third party, the right thereto shall be tried between the claimant and the plaintiff as an incidental action; and the proceedings in the original action shall be stayed, if the court shall consider such stay necessary for the purposes of justice, but not otherwise.

Property sequestered claimed by third party.

Where mortgagor insolvent, assignee to be joined.

649 In every case where an action is brought against a mortgagor against whom proceedings in insolvency are in progress in any court in this colony, the assignee in insolvency shall be joined as a co-defendant.

PART V.

PROVISIONAL REMEDIES.

CHAPTER XLVII.

Of Arrest and Sequestration before Judgment.

Arrest before judgment.

650 If a plaintiff or one of several plaintiffs in any action either at the commencement thereof or at any subsequent period before judgment, shall, by way of motion on petition, supported by his own affidavit and *vivâ voce* examination (should the judge consider such examination desirable), subject, however, to the exceptions hereinafter contained, satisfy the judge that he has a sufficient cause of action against the defendant, either in respect of a money claim of or exceeding two hundred rupees or because he has sustained damage to that amount, and that he has no adequate security to meet the same, and that he does verily believe that the defendant is about to quit the island, and if he shall at the same time further establish to the satisfaction of the judge by affidavit or (if the judge shall so require) by *vivâ voce* testimony such facts that the judge infers from them that the defendant is about to quit the island, and will do so unless he be forthwith apprehended, such judge may order a warrant (form No. 100, schedule II.), to arrest the body of the defendant and to bring him before the court unless he shall give bail in, or make deposit of, such an amount as the said judge shall consider reasonable and adequate, which amount the said judge at the time of making the said order shall set out on the face thereof; and the said warrant may be executed within one calendar month from the date thereof, including the day of such date, and not afterwards, in any district of the island. Provided that if the plaintiff shall be in possession of any security in part, he or the person making the application on his behalf shall, on pain of punishment as for contempt of court, set forth the same particularly in his application and the amount thereof, which amount shall be deducted from the amount of security to be required from the defendant.

Proviso.

Arrested person to be discharged on giving bail,

651 The defendant being arrested on such warrant, shall at once be brought up before the court by which it was issued in custody of the fiscal, unless he shall give reasonable security (form No. 101, schedule II.) to the fiscal to appear and answer the plaintiff's claim and to abide by and perform the judgment of the court, or to surrender himself or be surrendered to be charged in execution for the same; in which case the fiscal shall be authorized to discharge him. If he is brought before the court under the warrant, or if he appears in discharge of the bail taken by the fiscal, he must

give bail (No. 102, schedule II.) to abide by and perform the judgment of the court, and pay any sum or sums which may be awarded against him, or to surrender himself or be surrendered by his sureties, to be charged in execution for the same ; or if he is unable or unwilling to give such bail, he shall be committed to prison (form No. 103, schedule II.) until he does so, or until the determination of the action ; and in the event of the decree being passed against him, then until the execution of the decree subject to the provisions of chapter XXII. in regard to imprisonment in execution of a decree for money ; and provided also that no person shall in any case be imprisoned under this section for a longer period than three months before decree.

otherwise committed to prison.

652 The defendant may, instead of giving bail, as is hereinbefore directed, deposit with the fiscal or in court the sum mentioned in the warrant, and thereupon he shall be discharged from custody, and a minute of the same shall be made on the warrant; and the sum so deposited shall be applied in satisfaction of the judgment should the same eventually pass against the defendant, and the surplus, if any, shall be refunded to the defendant.

Or instead of bail may make payment to fiscal.

653 If a plaintiff in any action, either at the commencement thereof or any subsequent period before judgment, shall, by way of motion on petition supported by his own affidavit and *vivâ voce* examination (if the judge should consider such examination necessary) satisfy the judge that he has a sufficient cause of action against the defendant, either in respect of a money claim of or exceeding two hundred rupees or because he has sustained damage to that amount, and that he has no adequate security to meet the same, and that he does verily believe that the defendant is fraudulently alienating his property to avoid payment of the said debt or damage ; and if he shall at the same time further establish to the satisfaction of the judge by affidavit, or (if the judge should so require) by *vivâ voce* testimony such facts that the judge infers from them that the defendant is fraudulently alienating his property with intent to avoid payment of the said debt or damage, or that he has with such intent quitted the island leaving therein property belonging to him, such judge may order a mandate (form No. 104, schedule II.) to issue to the fiscal, directing him to seize and sequester the houses, lands, goods, money, securities for money and debts, wheresoever or in whose custody soever the same may be within his district, to such value as the court shall think reasonable and adequate and shall specify in the mandate, and to detain or secure the same to abide the further orders of the court.

Of sequestration before judgment.

Explanation.—Sequestration of immovable property has the effect of sequestering all rents and profits which proceed thereout, pending the sequestration.

654 Before making the order for a warrant of arrest or mandate of sequestration, the judge shall require the plaintiff to enter into a bond (form No. 105, schedule II.), with or without sureties, in the discretion of the judge, to the effect

But plaintiff before such warrant of arrest or

sequestration is issued must give security.

that the plaintiff will pay all costs that may be awarded and all damages which may be sustained by reason of such arrest or sequestration, by the defendant or by any other person in whose possession such property shall have been so sequestered; and it shall be competent to the court to award such damages and costs of suit either to the defendant or to those in whose possession such property shall have been so sequestered.

Who may make affidavit in lieu of plaintiff.

655 In substitution for the affidavit of the plaintiff required by sections 650 and 653—

When the action is brought by the Attorney-General, then any officer of the Crown; and

When the action is brought by a corporation, board, public body, or company, then any principal officer of such corporation, board, public body, or company; and

When the plaintiff is absent from the island, then his attorney duly authorized to bring and conduct the action; and

When the plaintiff, or if there are more plaintiffs than one when such of the plaintiffs as are in the island, or when such attorney of the plaintiff as is just above-mentioned is or are unable from want of personal knowledge or from bodily or mental infirmity to make the required affidavit, then any recognized agent of the plaintiff,

may be allowed by the court to make an affidavit in these matters instead of the plaintiff.

Proviso.

Provided that in each of the foregoing cases the person who makes the affidavit instead of the plaintiff must be a person having personal knowledge of the facts of the cause of action, and must in his affidavit swear or affirm that he deposes from his own personal knowledge of the matter therein contained, and shall be liable to be examined as to the subject-matter thereof at the discretion of the judge, as the plaintiff would have been if the affidavit had been made by him.

Punishment for wilful false statement.

656 Any person wilfully making any false statement by affidavit or otherwise in the course of any of the proceedings aforesaid may be punished as for a contempt of court, besides his liability to be tried and punished for perjury where such statement is on oath or affirmation.

Manner of sequestration.

657 The sequestration ordered in pursuance of section 653 shall be made in the manner hereinbefore provided for sequestration or seizure of property preliminary to sale thereof in execution of a decree for money.

Manner of investigating any claim to property sequestered.

658 If any claim be preferred to the property sequestered before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property seized in execution of a decree for money.

Costs and damages where sequestration wrongful.

659 If upon any such investigation the court is satisfied that the property sequestered was not the property of the defendant, it shall pass an order releasing such property from seizure, and shall decree the plaintiff to pay such costs

and damages by reason of such sequestration, as the court shall deem meet. If otherwise, the court shall disallow the claim, and make such order as to costs as it shall deem meet.

Effect of sequestration on prior rights.

660 Sequestration before judgment shall not affect the rights, existing prior to the sequestration, of persons not parties to the action, nor bar any person holding a decree against the defendant from applying for the sale of the property under sequestration in execution of such decree.

Subsequent seizure of property under decree unnecessary.

661 Where property is under sequestration by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to again seize the property as preliminary to sale or delivery in execution of such decree.

CHAPTER XLVIII.

Of Injunctions.

When injunction may be granted.

662 Every application for an injunction for any of the purposes mentioned in section 87 of "The Courts Ordinance, 1889," except in cases where an injunction is prayed for in a plaint in any action, shall be by petition, and shall be accompanied by an affidavit of the applicant or some other person having knowledge of the facts, containing a statement of the facts on which the application is based.

Disobedience to injunction how punished.

663 An injunction granted by the court on any such application may in case of disobedience be enforced by the punishment of the offender as for a contempt of court.

Application to be on notice to opposite party.

664 The court shall in all cases, except when it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction cause the petition of application for the same together with the accompanying affidavit to be served on the opposite party: and where the application is made after the defendant has answered, the injunction shall in no case be granted before such service. But the court may in its discretion enjoin the defendant until the hearing and decision of the application.

Effect on corporation, &c.

665 An injunction directed to a corporation or board or other public body or company is binding not only on the corporation, board, public body, or company itself, but also on all members or officers of the corporation, board, public body, or company, whose personal action it seeks to restrain.

How set aside or varied.

666 An order for an injunction made under this chapter may be discharged, or varied, or set aside by the court, on application made thereto on petition by way of summary procedure by any party dissatisfied with such order.

When court may award compensation to respondent.

667 If it appears to the court that the injunction was applied for on insufficient grounds, or if, after the issue of an injunction which it has granted, the action is dismissed or judgment is given against the applicant by default or otherwise, and it appears to the court that there was no probable ground for applying for the injunction, the court may, on the

application of the party against whom the injunction issued, award against the party obtaining the same in its decree such sum as it deems a reasonable compensation for the expense or injury caused to such party by the issue of the injunction. An award under this section shall bar any action for compensation in respect of the issue of the injunction.

CHAPTER XLIX.

Of Interim Orders.

Order for sale of perishable property.

668 Any court may, on the application of any party to an action, order the sale by any person named in such order, and in such manner and on such terms as it thinks fit, of any movable property, being the subject of such action, which is subject to speedy and natural decay. The party carrying out the sale shall, within such time as the court shall limit, and after deducting thereout such expenses as the court allows him, deposit the proceeds of the sale in court to the credit of the action.

Order for detention, preservation, or inspection of property.

669 The court may, on the application of any party to an action, and on such terms as it thinks fit—

(1) Make an order for the detention, preservation, or inspection and survey of any property being the subject of such action ;

(2) For all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such action ; and

(3) For all or any of the purposes aforesaid authorize any samples to be taken, or any observation to be made, or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

Application herein to be made by way of summary procedure.

670 Every application under either of the two preceding sections shall be made by petition in the way of summary procedure ; and every party who is sought to be effected by the order must be named a respondent in the petition. Any such application may be made by a plaintiff after service of summons, or by a defendant after he has appeared in the action.

CHAPTER L.

Of the Appointment of Receivers.

When court may appoint a receiver.

671 Whenever it appears to the court to be necessary for the restoration, preservation, or better custody or management of any property, movable or immovable, the subject of an action or under sequestration, the court may on the application of any party who shall establish a *primâ facie* right to or interest in such property, by order—

(1) Appoint a receiver of such property, and, if need be

(2) Remove the person, in whose possession or custody the property may be, from the possession or custody thereof ;

(3) Commit such property to the custody or management of such receiver; and

(4) Grant to such receiver such fee or commission on the rents and profits of the property by way of remuneration as the court thinks fit, and all such powers as to bringing and defending actions and for the realization, management, protection, preservation, and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the court thinks fit.

And give him powers over subject of action or sequestration.

672 Notice of an application for the appointment of a receiver under this chapter must be served on the adverse party, unless he has left the island without leaving a recognized agent, or unless he has failed to appear in the action and the time limited for his appearance has expired; or if he has left a recognized agent, such notice may be given to such agent.

Notice of application.

673 Every receiver so appointed as aforesaid shall—

(1) Give such security (if any) as the court thinks fit duly to account for what he shall receive in respect of the property;

(2) Pass his accounts at such periods and in such form as the court directs;

(3) Pay the balance due from him therein as the court directs; and

(4) Be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Receivers to give security and pass accounts.

674 The court may at any time, on sufficient cause shown therefor, remove a receiver or require him to give fresh security.

Power of court to remove, or require fresh security.

675 Nothing in sections 671 and 673 authorizes or empowers the court to remove from the possession or custody of property under sequestration any person whom the parties to the action or some or one of them have or has not a present right so to remove.

Powers conferable by the court not to exceed those of parties themselves.

PART VI.

OF SPECIAL PROCEEDINGS.

CHAPTER LI.

Of Reference to Arbitration.

676 If all the parties to an action desire that any matter in difference between them in the action be referred to arbitration, they may at any time before judgment is pronounced apply, in person or by their respective proctors, specially authorized in writing in this behalf, to the court for an order of reference.

Matter in difference in an action may by consent of parties be referred to arbitration.

Mode of submission.

Every such application shall be in writing, and shall state the particular matter sought to be referred, and the written authority of the proctor to make it shall refer to it, and shall be filed in court at the time when the application is made, and shall be distinct from any power to compromise or to refer to arbitration which may appear in the proxy constituting the proctor's general authority to represent his client in the action.

Appointment of arbitrator.

The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration, and the parties desire that the nomination shall be made by the court, the court shall nominate the arbitrator.

The matter in difference to be referred to arbitrator by order of court.

677 The court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award and specify such time in the order.

When once a matter is referred to arbitration, the court shall not deal with it in the same action, except as hereinafter provided.

Appointment of an umpire.

678 If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators—

(*a*) By the appointment of an umpire ; or

(*b*) By declaring that the decision shall be with the majority if the major part of the arbitrators agree ; or

(*c*) By empowering the arbitrators to appoint an umpire; or

(*d*) Otherwise, as may be agreed between the parties ; or, if they cannot agree, as the court determines.

If an umpire is appointed, the court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

In event of death, &c., court may appoint new arbitrator ; or supersede arbitration.

679 If the arbitrator, or where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects, or becomes incapable to act, or leaves the island under circumstances showing that he will probably not return at an early date, the court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving the island, or make an order superseding the arbitration, and in such case shall proceed with the action.

When court may appoint umpire.

680 Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire ; and if within seven days after such notice has been served, or such further time as the court may in each case allow, no umpire be appointed, the court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

Powers of umpire appointed after reference.

681 Every arbitrator or umpire appointed under the foregoing sections shall have the like powers as if his name had been inserted in the order of reference.

Court to issue process.

682 The court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire to examine as the court may issue in actions tried before it.

Power of arbitrators to take evidence.

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or being guilty of any contempt to an arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties, and punishments, by order of the court on the representation of such arbitrator or umpire, as they would incur for the like offences in actions tried before the court.

Extension of time for award.

683 If from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the court may, if it think fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the action.

When umpire may enter on the reference in lieu of arbitrators.

684 When an umpire has been appointed, he may enter on the reference in the place of the arbitrators—

(*a*) If they have allowed the appointed time to expire without making an award ; or

(*b*) When they have delivered to the court or to the umpire a notice in writing, stating that they cannot agree.

Award to be filed in court.

685 When an award in an action has been made, the persons who made it shall sign it and cause it to be filed in court, together with any depositions and documents which have been taken and proved before them ; and notice of the filing shall be given to the parties.

Award may be in form of special case.

686 Upon any reference by an order of court the arbitrators or umpire may, with the consent of the court, state the award as to the whole or any part thereof in the form of a special case, for the opinion of the court ; and after the filing of such special case upon notice to the parties, the court shall upon an appointed day hear argument and deliver its opinion thereon ; and such opinion shall be added to and form part of the award.

Application to set aside or correct the award.

687 Within fifteen days from the date of receipt of notice of the filing of the award any party to the arbitration may by petition apply to the court to set aside the award, or to modify or to correct the award, or to remit the award to the arbitrators for reconsideration, on grounds mentioned in the following sections.

When court may correct award,

688 The court may, by order, modify or correct an award—

(*a*) Where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred ; or

(*b*) Where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

and make order as to costs.

689 The court may also make such orders as it thinks fit respecting the costs of the arbitration, if any question arises respecting such costs and the award contains no sufficient provision concerning them.

When court may remit award for reconsideration.

690 The court may remit the award on any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit—

(*a*) Where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;

(*b*) Where the award is so indefinite as to be incapable of execution;

(*c*) Where an objection to the legality of the award is apparent upon the face of it.

When an award is void:

691 An award remitted under section 690 becomes void on the refusal of the arbitrators or umpire to reconsider it.

when it may be set aside.

No award shall be set aside except on one of the following grounds, namely:

(*a*) Corruption or misconduct of the arbitrator or umpire;

(*b*) Either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

(*c*) The award having been made after the issue of an order by the court superseding the arbitration and restoring the action;

When it is not valid.

and no award shall be valid unless made within the period allowed by the court.

Judgment to be according to the award.

692 If the court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if it has been made, and the court has refused such application, then the court shall, after the time for making such application has expired, on a day of which notice shall be given to the parties, proceed to give judgment according to the award; or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case.

And decree to be framed thereon.

Upon the judgment so given a decree shall be framed, and shall be enforced in manner provided in this Ordinance for the execution of decrees. No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with the award.

Agreement to refer any difference to arbitration may be filed in court.

693 When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement, or to be appointed by any court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in such court.

The application shall be by petition in the way of summary procedure as hereinbefore provided, in which the parties to the agreement other than the petitioner or petitioners shall be named respondents.

Application therefor.

694 On such application being made, if no sufficient cause be shown to the contrary, the court may cause the agreement to be filed, and shall make an order of reference thereon; and may also nominate the arbitrator when he is not named therein and the parties cannot agree as to the nomination.

Court to order reference thereon.

695 The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the court under the last preceding section, and to the award of arbitration and to the enforcement of the decree founded thereupon.

Provisions of this chapter to apply to such reference.

696 When any matter has been referred to arbitration without the intervention of a court of justice, and an award has been made thereon, any person interested in the award may within six months of the making of the award apply to the court having jurisdiction over the matter to which the award relates, that the award be filed in court.

Award made on a reference independently of court may be filed in court.

697 The application shall be by petition in the way of summary procedure as hereinbefore provided, in which the parties to the arbitration other than the petitioner or petitioners shall be named respondents.

Application therefor.

698 If on the hearing of such application no ground, such as is mentioned or referred to in sections 690 or 691, be shown against the award, the court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

Filing and enforcement of such award.

CHAPTER LII.

Of Proceedings on Agreement of Parties.

699 Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement in writing, stating such question in the form of a case for the opinion of the court, and providing that, upon the finding of the court with respect to such question—

Agreed statement of case for decision of court.

(*a*) A sum of money fixed by the parties, or to be determined by the court, shall be paid by one of the parties to the other of them ; or

(*b*) Some property, movable or immovable, specified in the agreement, shall be delivered by one of the parties to the other of them ; or

(*c*) One or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the court to decide the question raised thereby.

When value of property is to be stated therein.

700 If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

To what court agreement may be presented.

701 The agreement, if framed in accordance with the rules hereinbefore contained, may for the determination of the question or questions thereby raised be brought before the court which would have jurisdiction to entertain an action, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement. And for this purpose it shall be presented to the court as an exhibit to a petition preferred by one or more of the parties to the agreement in the way of summary procedure, to which petition the other parties to the agreement shall be named respondent, and in which petition it shall be alleged that the agreement was duly executed by all the parties, and that the controversy is real, and that the agreement is submitted *bonâ fide* for the purpose of determining the rights of the parties: such petition shall be verified by affidavit, and the prayer of the petition shall conform to the stipulations of the agreement within section 699.

Judgment and decree thereon.

702 If at the hearing of this petition on consideration of the evidence before it the court is satisfied that the allegations of the petition are established, and is further of opinion that the subject of the agreement is fit to be decided, then it shall proceed to pronounce judgment between the parties upon the facts and questions stated in the agreement, and upon the judgment so given a decree shall be framed and passed, and shall be enforced in the manner provided in this Ordinance for the execution of decrees.

CHAPTER LIII.

Of Summary Procedure on Liquid Claims.

Action by summary procedure on liquid claims.

703 All actions where the claim is for a debt or liquidated demand in money arising upon a bill of exchange, promissory note, or cheque, or instrument or contract in writing for a liquidated amount of money, or on a guarantee where the claim against the principal is in respect of such debt or liquidated demand, bill, note, or cheque, may, in case the plaintiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Ordinance; but the summons shall be in the form No. 19 contained in the second schedule hereto annexed, or in such other form as the Supreme Court may from time to time prescribe.

Leave required to defend.

704 In any case in which the plaint and summons are in such forms respectively, the defendant shall not appear or defend the action, unless he obtains leave from the court as hereinafter mentioned so to appear and defend; and in

default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest to the date of payment, and such costs as the court may allow at the time of making the decree.

Without such leave decree at once with speedy execution.

The defendant shall not be required, as a condition of his being allowed to appear and defend, to pay into court the sum mentioned in the summons, or to give security therefor, unless the court thinks his defence not to be *primâ facie* sustainable, or feels reasonable doubt as to its good faith.

Proviso.

705 The plaintiff who so sues and obtains such summons as aforesaid must on presenting the plaint produce to the court the instrument on which he sues, and he must make affidavit that the sum which he claims is justly due to him from the defendant thereon. If the instrument appears to the court to be properly stamped, and not to be open to suspicion by reason of any alteration or erasure or other matter on the face of it, and not to be barred by prescription, the court may in its discretion make an order for the service on the defendant of the summons above mentioned. The day to be inserted in the notice as the day for the defendant's appearance shall be as early a day as can be conveniently named, regard being had to the distance of the defendant's residence from the court.

Instrument to be produced with the plaint on affidavit.

Summons to be of short date.

706 The court shall, upon application by the defendant, give leave to appear and to defend the action upon the defendant paying into court the sum mentioned in the summons, or upon affidavits satisfactory to the court, which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the court may deem sufficient to support the application and on such terms as to security, framing, and recording issues, or otherwise, as the court thinks fit.

When leave to defend may be granted.

707 After decree the court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the action, if it seem reasonable to the court so to do, and on such terms as the court thinks fit.

When court may set aside decree, &c.

708 In any proceeding under this chapter the court may order the instrument on which the action is founded to be forthwith deposited with an officer of the court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

Court may order deposit of instrument.

709 The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance, or non-payment, or otherwise, by reason of such dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

Recovery of expenses incurred in noting.

710 Except as provided in this chapter, the procedure in actions under this chapter shall be the same as the procedure in actions instituted under chapter VII.

Saving clause.

Special trial roll to be kept.

711 In every court in which cases may be instituted under this chapter, a special trial roll shall be kept of such cases in which issue has been joined. And it shall be competent for the judge of such court to order such cases to be set down for hearing on such days, and on the day fixed for the hearing of any such case to direct the same to be called on for trial, in such order as to him shall appear best calculated to promote the ends of justice, any rule or practice of such court to the contrary notwithstanding; provided that the parties to such case shall have received reasonable notice of the day of hearing.

PART VII.

OF THE AIDING AND CONTROLLING OF EXECUTORS AND ADMINISTRATORS, AND THE JUDICIAL SETTLEMENT OF THEIR ACCOUNTS.

CHAPTER LIV.

Of Aiding, Supervising, and Controlling Executors and Administrators.

Proceedings to discover property withheld, &c.

712 An executor or administrator may present to the court from which grant of probate or administration issued to him, a petition entitled as of the action in which such grant issued, setting forth upon knowledge, or information and belief, any facts tending to show that money or other movable property which ought to be delivered to the petitioner, or which ought to be included in his inventory and valuation, is in the possession, under the control, or within the knowledge or information of a person who withholds the same from him, or who refuses to impart any knowledge or information he may have concerning the same, or to disclose any other fact which will in any way aid the petitioner in making discovery of such property, so that it cannot be inventoried and valued : and praying an inquiry respecting it, and that the person complained of may be cited to attend the inquiry and to be examined accordingly. The petition may be accompanied by affidavits or other evidence tending to support the allegations thereof. If the court is satisfied upon the materials so presented that there are reasonable grounds for inquiry, it shall issue a citation accordingly, which may be made returnable forthwith, or at such future time as the court shall direct.

Order to accompany citation.

Service of.

Failure to obey.

713 There shall be annexed to, or endorsed on, the citation an order signed by the judge, requiring the person cited to attend personally at the time and place therein specified. The citation and order must be personally served, and the service shall be ineffectual unless it is accompanied with payment or tender of the sum required by law to be paid or tendered to a witness subpœnaed to attend a trial in a civil court. Failure to attend as required by the citation and order may be punished as a contempt of court.

714 Upon the attendance of a person in obedience to such citation and order, he shall be examined fully and at large, on oath or affirmation, respecting any money or other property of the testator or intestate, or of which the testator or intestate was in possession at the time of or within two years preceding his death. A refusal to be sworn or to answer any question allowed by the court is punishable in the same manner as a like refusal by a witness in a civil case. In case the person cited puts in an affidavit that he is the owner of any of the said property, or is entitled to the possession thereof by virtue of any lien thereon or special property therein, the proceedings as to such property so claimed shall be dismissed.

Examination of person cited.

Refusal to answer.

715 In the absence of the affidavit last mentioned, either party may on any such inquiry produce further evidence in like manner and with like effect as upon a trial.

Further evidence.

716 Where it appears to the court, from the examination and other testimony, if any, that there is reason to suspect that money or other property of the testator or intestate is withheld or concealed by the person cited, the court shall, unless the person cited gives security by a bond entered into with the petitioner as obligee, with such sureties and in such penalty as the court approves, for the payment of the money or delivery of the property, or in default of such delivery for the payment to the obligee of the full value thereof, and in either case of all damages which may be awarded against the obligor for withholding the same whenever it shall be determined in an action brought by the obligee that it belongs to the estate of the testator or intestate, make a decree reciting the grounds thereof, and requiring the person cited to deliver possession of the money or other property, specifying the sum or describing the property, to the petitioner. But in the event of such security being given, and after payment within a time to be fixed therefor of any costs which the court may award to the petitioner, the proceedings shall be dismissed.

Decree awarding possession to the petitioner,

unless security given to prevent.

717 Where the decree requires the person cited to deliver money, disobedience thereto may be punished as contempt of court.

Disobedience to decree contempt.

Where it requires him to deliver possession of other property, a warrant shall issue on the application of the petitioner directed to the fiscal, and commanding him to search for and seize the property, if it is found in the possession of the person cited, or his agent, or any person deriving title from him since the presentation of the petition, to deliver the same to the petitioner, and to return the warrant within sixty days.

Warrant to seize property.

The issue of such a warrant does not affect the power of the court to enforce the decree, or any part thereof, by punishing a disobedience thereto.

718 A creditor, or any person interested in the estate, may present to the court in the action in which grant of probate or administration issued, proof by affidavit that an executor or administrator has failed to file in court the inventory and

Executor, &c., how compelled to return inventory and accounts.

valuation, and account (or a sufficient inventory and valuation, or sufficient accounts) required by law within the time prescribed therefor. Thereupon, or of its own motion, if the court is satisfied that the executor or administrator is in default, it shall make an order requiring the delinquent to file the inventory and valuation or accounts, or a further inventory and valuation or further accounts, as the case may be: or in default thereof to show cause at a time and place therein specified why he should not be attached. Upon the return of the order, if the delinquent has not filed a sufficient inventory and valuation or sufficient accounts, the court shall issue a warrant of attachment against him, and shall deal with him as for a contempt of court.

How executor or administrator may be discharged from commitment.

719 A person committed to jail under the provisions of the last preceding section may be discharged by the court upon his paying and delivering under oath all the money and other property of the testator or intestate, and all papers relating to the estate under his control, to the judge, or a person authorized by the judge to receive the same.

Petition by creditor or legatee to compel payment.

720 In either of the following cases a petition, entitled as of the action in which grant of probate or administration issued, may be presented to the court which issued the same, praying for a decree directing an executor or administrator to pay the petitioner's claim, and that he be cited to show cause why such decree should not be made:

(*a*) By a creditor, for the payment of a debt, or of its just proportional part, at any time after twelve months have expired since grant of probate or administration;

(*b*) By a person entitled to a legacy, or any other pecuniary provision under a will, or a distributive share, for the payment or satisfaction thereof, or of its just proportional part, at any time after twelve months have expired since such grant.

Citation to issue.

721 On the presentation of such petition the court shall issue a citation accordingly, and upon the return thereof shall make such decree in the premises as justice requires.

Hearing and decree.

But in any case where the executor or administrator files an affidavit setting forth facts which show that it is doubtful whether the petitioner's claim is valid and legal, and denying its validity or legality absolutely, or upon information and belief, or where the court is not satisfied that there is money or other movable property of the estate applicable to the payment or satisfaction of the petitioner's claim, and which may be so applied without injuriously affecting the rights of others entitled to priority or equality of payment or satisfaction, the decree shall dismiss the petition, but such dismissal shall not prejudice the right of the petitioner to an action or accounting.

Appeal.

722 Every order or decree made under the provisions of this chapter shall be subject to an appeal to the Supreme Court.

CHAPTER LV.

Of the Accounting and Settlement of the Estate.

Intermediate accounting, voluntary.

723 An executor or administrator may at any time voluntarily file in the court from which grant of probate or administration issued to him an intermediate account, and the vouchers in support of the same.

Intermediate accounting, compulsory.

724 The court may in any case, at any time, and either upon the application of a creditor or party interested, or of its own motion, make an order requiring an executor or administrator to render an intermediate account.

Judicial settlement of account.

725 In any of the following cases, and either upon the application of a party mentioned in the next section or of its own motion, the court may from time to time compel a judicial settlement of the account of an executor or administrator—

(*a*) Where one year has expired since grant to him of probate or administration;

(*b*) Where such grant has been revoked, or for any other reason his powers have ceased;

(*c*) Where he has sold or otherwise disposed of any immovable property of the testator, or devisable interest therein, or the rents, profits, or proceeds thereof, pursuant to a power in the will, where one year has elapsed since the grant of probate to him.

Who may apply for accounting.

726 The application for a judicial settlement in the last section mentioned shall be by petition, entitled as of the action in which grant of probate or administration issued, and may be presented by a creditor, or by any person interested in the estate or fund, including a child born after the making of a will; or by any person in behalf of an infant so interested; or by a surety in the official bond of the person required to account, or the legal representative of such surety. Upon the presentation thereof, citation shall issue accordingly; but in a case specified in sub-section (*a*) of the last preceding section the court may, if the petition is presented within less than eighteen months after the issue of probate or administration, entertain or refuse to entertain it in its discretion.

Citation.

Order to account.

727 Upon the return of such citation, if the executor or administrator fails either to appear, or to show good cause to the contrary, or to present, in a proper case, a petition as prescribed in section 729, an order shall be made directing him to account within such a time and in such a manner as the court prescribes, and to attend before the court from time to time for that purpose: And the executor or administrator shall be bound by such order without service thereof, and if he disobeys it the court may issue a warrant of attachment against him, and the grant of probate or administration issued to him may be revoked. If it appears that there is a surplus, distributable to creditors or persons interested, the court may at any time issue a supplemental

Supplemental citation.

citation, directed to such persons as must be cited upon the petition of an executor or administrator for a juidcial settlement of his account, requiring them to attend the accounting.

Person cited may bring in other parties.

Proceedings.

728 Upon the return of any citation issued under any of the foregoing sections of this chapter, the executor or administrator may, if one year has expired since grant of probate or administration issued to him, present a petition as in the next section prescribed. A citation issued upon such a petition need not be directed to the petitioner in the special proceeding pending against the executor or administrator; but the hearing of the special proceeding shall be adjourned until the return of the citation so issued, whereupon the two special proceedings shall be consolidated. Such consolidation shall not affect any power of the court which might be exercised in either special proceeding.

Executor, &c., may petition for judicial settlement of his account.

729 At any time after the expiration of one year since grant of probate or administration to an executor or administrator, he may present to the court which issued the same a petition, entitled as of the action in which such grant issued to him, praying that his account may be judicially settled, and that the creditors or persons claiming to be creditors, husband or wife, heirs, next of kin, and legatees (if any) of the testator or intestate, or, if any of those persons has died, his executor or administrator (if any), may be cited to attend the settlement. If one or more co-executors or co-administrators presents such a petition for a settlement of his separate account, it must pray that his co-executors or co-administrators be also cited. And upon the presentation of any such petition a citation shall issue accordingly.

Citation.

Hearing.

730 Upon the return of such citation the court must take the account and hear the allegations and proofs of the parties respecting the same. Any party may contest the account with respect to a matter affecting his interest in the settlement and distribution of the estate; and any party may contest an intermediate account rendered under section 724 in case the same has not been consolidated under section 728.

Creditor not cited may appear.

731 Any creditor or person interested in the estate, although not cited, is entitled to appear upon the hearing, and thus make himself a party to the special proceeding.

Executor, &c., whose grant has been revoked may petition.

732 Any executor or administrator whose grant has been revoked or who is desirous of resigning his office may, in the same action, present to the court a petition praying that his account may be judicially settled, and that his successor (if any) and the other persons specified in section 729 may be cited to attend the settlement. The proceedings thereon shall be regulated according to the provisions of the last three sections.

Affidavit to be annexed to accounts.

733 To each account filed under this chapter shall be appended an affidavit of the accounting party, to the effect that the account contains, according to the best of his knowledge and belief, a full and true statement of all his receipts and disbursements on account of the estate of the testator or

intestate, and of all money and other property belonging to the estate which has come to his hands, or which has been received by any other person by his order or authority for his use : and that he does not know of any error or omission in the account to the prejudice of any creditor of, or person interested in, the estate.

Vouchers to be produced.

734 Upon every accounting by an executor or administrator, the accounting party must produce and file a voucher for every payment, except in one of the following cases :

(1) He may be allowed, without a voucher, any proper item of expenditure, not exceeding twenty rupees, if it is supported by his own uncontradicted oath or affirmation, stating positively the fact of payment, and specifying where and to whom the payment was made : provided that all the items so allowed against an estate, upon all the accountings of all the executors or administrators, shall not exceed two hundred rupees.

(2) If he proves, by his own or another's sworn testimony, that he did not take a voucher when he made the payment, or that the voucher then taken by him has been lost or destroyed, he may be allowed any item of which he satisfactorily proves the payment by the testimony of the person to whom he made it, or, if that person is dead or cannot be found, by any competent evidence other than his own or his wife's oath or affirmation.

But no such item shall be allowed unless the court is satisfied that the charge is correct and just.

Accounting party to be examined.

735 The court may at any time make an order requiring the accounting party to make and file his account, or to attend and be examined on oath or affirmation touching his receipts and disbursements, or touching any other matter relating to his administration, or any act done by him under colour of his grant or after the death of the testator or intestate, and before the issue of such grant, or touching any movable property of the testator or intestate owned or held by him at the time of his death.

Court to determine claims.

736 Upon a judicial settlement of the account of an executor or administrator, he may prove any debt owing to him by his testator or intestate, provided that a concise statement of such debt with an intimation of the petitioner's intention so to prove the same has been inserted in the petition. Where a contest arises between the accounting party and any of the other parties respecting any property alleged to belong to the estate, but to which the accounting party lays claim, or respecting a debt alleged to be due by the accounting party to the testator or intestate, or by the testator or intestate to the accounting party, the contest must be tried and determined in the same special proceeding and in the same manner as any issue arising on a civil trial.

Prescription.

737 From the death of the testator or intestate until the first judicial settlement of an account by his executor or administrator, the running of the Ordinance relating to the

prescription of actions against a debt due from the deceased to the accounting party, or any other cause of action in favour of the latter against the deceased, is suspended, unless the accounting party was appointed upon the revocation of a former grant to another person ; in which case the running of the Ordinance is so suspended from the grant to him until the first judicial settlement of his account. After the first judicial settlement of the account of an executor or administrator, the Ordinance begins again to run against a debt due to him from the deceased, or any other cause of action in his favour against the deceased.

Court may allow for property lost, &c.

738 Upon a judicial settlement of the account of an executor or administrator, the court may allow the accounting party for property of the testator or intestate perished or lost without the fault of the accounting party.

Effect of judicial settlement.

739 A judicial settlement under this chapter, either by the decree of the district court or upon an appeal therefrom, is conclusive evidence against all parties who were duly cited or appeared, and all persons deriving title from any of them at any time, of the following facts, and no others :

(1) That the items allowed to the accounting party for money paid to creditors, legatees, heirs, and next of kin, for necessary expenses, and for his services, are correct.

(2) That the accounting party has been charged with all the interest for money received by him and embraced in the account, for which he was legally accountable.

(3) That the money charged to the accounting party, as collected, is all that was collectible at the time of the settlement on the debts stated in the account.

(4) That the allowances made to the accounting party for the decrease, and the charges against him for the increase, in the value of property were correctly made.

Decree for payment and distribution.

740 When an account is judicially settled under the provisions of this chapter, and any part of the estate remains and is ready to be distributed to the creditors, legatees, heirs, next of kin, husband, or wife of the testator or intestate, or their assigns, the decree must direct the payment and distribution thereof to the persons so entitled, according to their respective rights. If any person who is a necessary party for that purpose has not been cited, or has not appeared, a supplemental citation must be issued as prescribed in section 727. Where the validity of a debt, claim, or distributive share is not disputed, or has been established, the decree must determine to whom it is payable, the sum to be paid, and all other questions concerning the same. And such decree shall be conclusive with respect to the matters enumerated in this section upon each party to the special proceeding who was duly cited or appeared, and upon every person deriving title from such party.

741 In either of the following cases the decree may direct the delivery of unsold property, movable or immovable, or the assignment of an uncollected demand, or any other movable property, to a party or parties entitled to payment or distribution in lieu of the money value of the property :

When specific property may be delivered.

(1) Where all the parties interested, who have appeared, manifest their consent thereto by a writing filed in court.

(2) Where it appears that a sale thereof, for the purpose of payment or distribution, would cause a loss to the parties entitled thereto. The value must be ascertained, if the consent does not fix it, by an appraisement under oath made by one or more persons appointed by the court for the purpose.

742 Where an admitted debt of the testator or intestate is not yet due, and the creditor will not accept present payment with a rebate of interest, or where an action is pending between the executor or administrator and a person claiming to be a creditor of the deceased, the decree must direct that a sum sufficient to satisfy the claim, or the proportion to which it is entitled, together with the probable amount of the interest and costs, be retained in the hands of the accounting party, or paid into court for the purpose of being applied to the payment of the claim when it is due, recovered, or settled ; and that so much thereof as is not needed for that purpose be afterwards distributed according to law.

When money may be retained.

743 Where a legacy or distributive share is payable to a lunatic or minor, the decree may, in the discretion of the court, direct it to be paid to the manager or curator, as the case may be, of the estate of such lunatic or minor ; and where a sum of less than one hundred rupees is so payable to a minor, the decree may direct that the same be applied to the maintenance or education of the minor. And such manager or curator shall apply and account for any sum received by him under this chapter in manner in chapters XXXIX. and XL. respectively provided with regard to sums coming to his hands as such manager or curator.

Share of lunatic or minor.

744 Every order or decree made under the provisions of this chapter shall be subject to an appeal to the Supreme Court.

Appeal.

CHAPTER LVI.

Of Accounting in case of Lunatics and Minors.

745 A petition praying for the judicial settlement of the account of—

Compulsory judicial settlement of accounts in cases of lunatics and minors.

(*a*) The manager of the estate of a lunatic ;

(*b*) The guardian of the person of a lunatic ;

(*c*) The curator of the estate of a minor;

(*d*) The guardian of the person of a minor;

(*e*) The next friend of a minor plaintiff;

(*f*) The guardian for the action of a minor defendant; and that such person may be cited to attend the settlement thereof, may in every case where any such person is required by law to file accounts, be presented to the court having jurisdiction in the manner in the last preceding chapter provided by any of the following persons, respectively, viz.:—

In cases falling under heads (*a*) and (*b*)—

By the lunatic after he has been found by adjudication to have ceased to be of unsound mind, or by any relative or friend of the lunatic, or by the executor or administrator of a deceased lunatic, or under (*a*) by the guardian of the person and under (*b*) by the manager of the estate of a lunatic, or by any public officer mentioned in section 556.

In cases falling under heads (*c*), (*d*), (*e*), and (*f*)—

By the minor after he has attained majority, or by the executor or administrator of a deceased minor, or under (*c*) by the guardian of the person, and under (*d*) by the curator of the estate of a minor.

And in any case by the successor of any such manager, curator, guardian, next friend, or guardian for the action. But in cases falling under heads (*b*), (*d*), (*e*), and (*f*) proof must be adduced to the satisfaction of the court that the person so required to account has received money or property of the minor for which he is liable to account and has not accounted.

Voluntary judicial settlement of accounts in cases of lunatics and minors.

746 A petition praying for the judicial settlement of his account and a discharge from his duties and liabilities may be presented in like manner by any of the persons described under heads (*a*), (*b*), (*c*), (*d*), (*e*), and (*f*) of the last preceding section, in any case where a petition for a judicial settlement of his account may be presented by any other person as prescribed in the last section. The petition must pray that every person who might have so presented a petition may be cited to attend the settlement.

Procedure.

747 Upon the presentation of any petition as mentioned in the last two sections, the court shall issue a citation accordingly. Sections 724 to 740 both inclusive shall be taken to apply so far as is practicable, *mutatis mutandis*, to all proceedings under this chapter. And the accounting party must annex to every account produced and filed by him an affidavit verifying the account.

Appeal.

748 Every order or decree made under the provisions of this chapter shall be subject to an appeal to the Supreme Court.

CHAPTER LVII.

General Clauses.

Requisites of petitions under chapters relating to lunatics, &c.

749 Every petition by which an application is made to a district court for the exercise of its powers over or in respect of lunatics, minors, or trustees shall state expressly that the petitioner does not know of any person interested in the subject of the petition or in the person sought to be affected by the order prayed for in the petition, who is likely to entertain any objection thereto, other than those who are named as respondents in the petition.

Citations.

750 But the court shall have power nevertheless to direct that the order *nisi* be served on any person or persons other than a respondent, whom it may consider entitled to have notice of the application.

Security bonds.

751 All security bonds made under or in pursuance of the provisions of chapters XXXIX., XL., and XLI. shall, unless otherwise expressly or by implication directed, be expressed to be made with the secretary of the court for the time being. And in the case of bonds so made, upon each occurrence of a change of secretary the new secretary shall be deemed to take the place of, and to be substituted for, the secretary whom he succeeds, as party obligee to the contract on the bond, and shall become such party as fully and completely in all respects as if he were originally made such party on the occasion of the making of the bond.

Security for due administration.

752 The district court shall have the like power to make the person appointed manager of a lunatic's estate, or the person appointed curator of a minor's estate, give security for the due administration of the estate as it has in the case of administrators of deceased persons' estates.

PART VIII.

OF APPEALS.

CHAPTER LVIII.

Of Appeals and Revision.

Powers of revision by Supreme Court.

753 The Supreme Court may call for and examine the record of any case, whether already tried or pending trial, in any court, for the purpose of satisfying itself as to the legality or propriety of any judgment or order passed therein, or as to the regularity of the proceedings of such court, and may upon revision of the case so brought before it pass any judgment or make any order which it might have made had the case been brought before it in due course of appeal instead of by way of revision.

Form of appeal and transmission thereof.

754 Every appeal to the Supreme Court from any judgment, decree, or order of any original court, shall be made in the form of a written petition to the Supreme Court in the name of the appellant, and shall be preferred to the Supreme Court as hereinafter provided.

The petition of appeal shall be presented to the court of first instance for this purpose by the party appellant or his proctor within a period of ten days, or where such court is a court of requests, seven days, from the date when the decree or order appealed against was pronounced, exclusive of the day of that date itself and of the day when the petition is presented and of Sundays and public holidays, and the court to which the petition is so presented shall receive it and deal with it as hereinafter provided. If those conditions are not fulfilled it shall refuse to receive it.

To be drawn by advocate or proctor.

755 All petitions of appeal shall be drawn and signed by some advocate or proctor, or else the same shall not be received. Provided always that any party desirous to appeal may within the time limited for presenting a petition of appeal, and upon his producing the proper stamp required for a petition of appeal, be allowed to state *vivâ voce* his wish to appeal together with the particular grounds of such appeal, and the same shall (so far as they are material) be concisely taken down in writing from the mouth of the party by the secretary or chief clerk of the court in the form of a petition of appeal, when it shall be signed by such party and attested by the secretary or chief clerk, and be received as the petition of appeal of such party without the signature of any advocate or proctor.

Security for costs of appeal

756 When a petition of appeal has been received by the court of first instance under section 754, the petitioner shall forthwith give notice to the respondent that he will on a day to be specified in such notice, and within a period of twenty days, or where such court is a court of requests, fourteen days, from the date when the decree or order appealed against was pronounced, computed as in the same section is directed for the periods of ten days and seven days therein respectively mentioned, tender security as hereinafter directed for the respondent's costs of appeal, and will deposit a sufficient sum of money to cover the expenses of serving notice of the appeal on the respondent. And on such day the respondent shall be heard to show cause if any against such security being accepted. And in the event of such security being accepted and also the deposit made within such period, then the court shall immediately issue notice of the appeal together with a copy of the petition of appeal, to be furnished to the court for that purpose by the appellant, to the fiscal for service on the respondent who is named by the appellant in his petition of appeal, or on his proctor if he was represented by a proctor in the court of first instance, and shall forward to the Supreme Court the petition of appeal together with all the papers and proceedings of the case relevant to the decree or order appealed against; retaining, however, an office copy of the decree or order appealed against, for the purposes of execution if necessary. And such proceedings shall be accompanied by a certificate (form No. 128, schedule II.) from the secretary or clerk of the court stating the dates of the institution and decision of the case, in whose favour it was decided, the

Notice of appeal to be served on respondent by fiscal.

Certificate of secretary.

respective days on which petition of appeal was filed and security given, and whether either the plaintiff sued or the defendant defended *in formâ pauperis*. But where an appeal is taken from the decision of a judge of the Supreme Court sitting alone as in section 40 of "The Courts Ordinance, 1889," provided, the registrar of such court shall, after doing all acts and things necessary to be done by such secretary or clerk as aforesaid preparatory to forwarding proceedings in appeal to the Supreme Court as in this section provided, proceed in manner in section 768 prescribed.

The fiscal's return to the process issued under this section shall immediately upon being received by the court of first instance be transmitted to the Supreme Court, but where the appeal is from the decision of a judge of the Supreme Court so sitting alone as in the last-mentioned Ordinance provided, such return shall be made to and filed by the registrar with the proceedings in appeal.

And when a petition of appeal has been so received, but the petitioner has failed to give the security and to make the deposit as in this section provided, then the petition of appeal shall be held to have abated, and the further proceedings in this section prescribed shall not be necessary.

Security to be by bond and with surety.

757 The security to be required from a party appellant shall be by bond (form No. 129, schedule II.) with one or more good and sufficient surety or sureties, or shall be by way of mortgage of immovable property or deposit and hypothecation by bond of a sum of money sufficient to cover the costs of the appeal and to no greater amount.

Language and frame of appeal.

758 The petition of appeal shall be distinctly written in the English language upon good and suitable paper, and shall contain the following particulars :

(*a*) The name of the court in which the case is pending.

(*b*) The names of the parties to the action.

(*c*) The names of the appellant and of the respondent.

(*d*) The address to the Supreme Court.

(*e*) A plain and concise statement of the grounds of objection to the judgment, decree, or order appealed against—such statement to be set forth in duly numbered paragraphs.

(*f*) A demand of the form of relief claimed.

Grounds of decision in appeal.

The court in deciding any appeal shall not be confined to the grounds set forth by the appellant, but it shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of being heard on that ground.

Where petition to be rejected.

759 If the petition of appeal is not drawn up in the manner in the last preceding section prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended, within a time to be fixed by the court ; or be amended then and there. When the court rejects under this section any petition of appeal, it shall record the reasons

of such rejection. And when any petition of appeal is amended under this section, the judge, or such officer as he shall appoint in that behalf, shall attest the amendment by his signature.

When one of several plaintiffs or defendants may appeal against whole decree.

760 Where there are more plaintiffs or more defendants than one in an action, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

CHAPTER LIX.

Of the Execution of Decrees under Appeal.

Execution pending appeal may be stayed before expiration of appeal time by the court which passed the decree.

761 Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but, if any application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the court which passed the decree may for sufficient cause order the execution to be stayed:

Proviso

Provided that no order shall be made under this section unless the court making it is satisfied—

(*a*) That substantial loss may result to the party applying for stay of execution unless the order is made;

(*b*) That the application has been made without unreasonable delay; and

(*c*) That security is given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

Application how to be made.

762 Every application to the court for stay of execution under the immediately preceding section must be made by petition, in which the judgment-creditor shall be named respondent.

Application for execution of decree pending appeal must be on notice to debtor; and execution will only be granted on security.

763 In the case of an application being made by the judgment-creditor for execution of a decree which is appealed against, the judgment-debtor shall be made respondent.

If, on any such application, an order is made for the execution of a decree against which an appeal is pending, the court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Supreme Court.

And when an order has been passed for the sale of immovable property in execution of a decree for money, and an appeal is pending against such decree, the sale shall, on the application of the judgment-debtor, be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the court which passed the decree thinks fit.

764 No such security in appeal shall be required from the Crown or (when Government has undertaken the defence of the action) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Exception in favour of Government.

CHAPTER LX.

Of Appeal notwithstanding Lapse of Time.

765 It shall be competent to the Supreme Court to admit and entertain a petition of appeal from a decree of any original court, although the provisions of sections 754 and 756 have not been observed; provided that the Supreme Court is satisfied that the petitioner was prevented by causes not within his control from complying with those provisions; and provided also that it appears to the Supreme Court that the petitioner has a good ground of appeal, and that nothing has occurred since the date when the decree or order which is appealed from was passed to render it inequitable to the judgment-creditor that the decree or order appealed from should be disturbed.

Appeal notwithstanding lapse of time.

Proviso.

766 In every such petition of appeal as is the subject of the last section the judgment-creditor shall be named respondent, and the petition shall be accompanied by a certified copy of the decree or order appealed from, and of the judgment on which it is based as well as by such affidavits of facts and other materials as may constitute *primâ facie* evidence that the conditions precedent to the petition of appeal being entertained, which are prescribed in the last section, are fulfilled Also, every such petition shall be presented immediately to the Supreme Court in its appellate jurisdiction, and in addition to the prayer for relief in respect to the subject of appeal it shall contain a prayer that the appeal may be admitted notwithstanding the lapse of time.

Petition therefor

to be presented immediately to the Supreme Court.

767 On any such petition being forwarded to the Supreme Court, the question whether or not it ought to be admitted shall be a preliminary question to be determined forthwith on summary procedure, according to the provisions of alternative (*b*), section 377, and for this purpose the jurisdiction of the court may be exercised by a single judge thereof. If upon the hearing of this question the Supreme Court is satisfied that the conditions prescribed in section 765 are fulfilled, it may order the petition of appeal to be admitted upon such conditions as to costs, security, or otherwise as to the court may seem just, and in the event of its doing so the registrar shall, where the court of first instance is the Supreme Court, proceed as in section 768 provided; but where such court is a district court or court of requests, the Supreme Court shall issue a mandate to such court, directing it to forward to the Supreme Court the record of the proceedings of the action in which the decree or order appealed from was passed; if however, on the contrary, the court is not satisfied that the said conditions are fulfilled, it shall dismiss the petition and make such order as to costs as may seem to the court just.

Order of Supreme Court thereon.

CHAPTER LXI.

Hearing of the Appeal.

Hearing of appeal.

768 When the petition of appeal has been preferred to the Supreme Court in manner in section 756 prescribed, or in the event of the petition of appeal being presented immediately to the Supreme Court, when the order for its admission has been made, the registrar shall, unless the court otherwise orders, number the petition and enter it in the roll of causes for hearing, according to the standing orders of court for the time being relative to the course of business of the court: and the matter of the appeal shall come on for hearing before the court in the order of its position on that roll, and according to the said standing orders without further notice to the parties concerned; provided that a list of the appeals pending before the court in their order on the roll, or of a sufficient number of them, be daily kept suspended upon the doors of the court, and that no appeal shall come on for hearing until it has been in that list in the case of appeals from district courts for fourteen, or in the case of appeals from courts of requests for seven days; and provided also that the court may of its own motion or on the application of a party concerned, and with reasonable notice to the parties, accelerate or postpone the hearing of an appeal, upon any such terms as to the prosecution or the costs of the appeal, or otherwise, as it may think fit.

Proviso 1.

Proviso 2.

Right of appellant to be heard and respondent, if required.

769 When the appeal comes on for hearing, the appellant shall be heard in support of the appeal. The court shall then, if it does not at once dismiss the appeal or affirm the decree appealed from, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply. If the appellant does not appear either by counsel or in person, and has not been allowed to appeal *in formâ pauperis*, the appeal may in the discretion of the court be dismissed. Provided that on sufficient cause shown it shall be lawful for the Supreme Court to reinstate, upon such terms as the court shall think fit, any appeal that has been dismissed for non-appearance.

When party may obtain re-hearing of appeal.

Power of court to adjourn hearing.

770 If at the hearing of the appeal the respondent is not present and the court is not satisfied upon the affidavits returned by the fiscal, or other evidence, that the notice of appeal was duly served upon him or his proctor, as prescribed in section 756, or if it appears to the court at such hearing that any person who was a party to the action in the court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the court may adjourn the hearing to a future day, to be fixed by the court, and direct that such person be made a respondent, and may issue the requisite notices of appeal to the fiscal for service.

Right of respondent to object to decree.

771 When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if he

satisfies the court that the notice of appeal was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the court may re-hear the appeal, on such terms as to costs or otherwise as the court thinks fit to impose upon him.

Rights of respondent at hearing.

772 Any respondent, though he may not have appealed against any part of the decree, may, upon the hearing, not only support the decree on any of the grounds decided against him in the court below, but take any objection to the decree which he could have taken by way of appeal, provided he has given to the appellant or his proctor seven days' notice in writing of such objection.

Such objection shall be in the form prescribed under head (*e*) of section 758.

Power of court to dismiss the appeal, affirm, vary, or set aside the decree, or direct new trial, &c.

773 Upon hearing the appeal it shall be competent to the Supreme Court to exercise any of the powers in that behalf conferred upon it by section 40 of "The Courts Ordinance, 1889," or to order a new or further trial on the ground of discovery of fresh evidence subsequent to the trial.

Judgment of the court.

774 On the termination of the hearing of the appeal, the Supreme Court shall either at once or on some future day, which shall either then be appointed for the purpose, or of which notice shall subsequently be given to the parties or their counsel, pronounce judgment in open court; and if the bench hearing the appeal is composed of more than one judge, each judge may, if he desires it, pronounce a separate judgment.

The judgment, which shall be given or taken down in writing, and shall be signed and dated by the registrar, shall, unless the decree or order appealed from is simply affirmed, or the petition of appeal is dismissed, state—

(*a*) The points for determination;

(*b*) The decision of the judge or judges thereon;

(*c*) The reasons which have led to the decision;

(*d*) The relief, if any, to which the appellant is entitled on the appeal in consequence of the decision.

When appeal may be re-heard.

775 When the bench hearing the appeal is composed of two judges, and the judges composing the bench do not agree as to the decree which should be passed by the court on the appeal, then the appeal shall be re-heard by the full court of three judges on a day specially appointed for the purpose, of which notice shall be given to the parties or their counsel. And after such re-hearing any judge dissenting from the decree which the majority consider ought to be passed on appeal, shall state in writing the decree which he thinks ought to be made, and shall state his reasons for the same. Provided that in the case of appeals from the decision of a judge of the Supreme Court sitting alone as in "The Courts Ordinance, 1889," provided, when the two judges hearing the appeal do not agree, the original judgment shall stand affirmed.

When all the judges, of which the bench hearing the appeal is composed, are unanimous in regard to the decree which ought to be passed, the judges shall pronounce the judgments in order of seniority, commencing with the judge who is senior in rank, but, if otherwise, they shall pronounce their judgments in the reverse order.

Decree of the Supreme Court:

776 The decree of the Supreme Court shall be passed in accordance with the judgments of the judges of which the bench hearing the appeal is composed, if they are unanimous in regard to it, but, if otherwise, in accordance with the judgments of the majority of them. It shall bear date the day on which the judgment was pronounced, and shall contain the following particulars:

how framed:

(*a*) The heading "In the Supreme Court;"

(*b*) The court number and title of the appeal;

(*c*) The names of the parties;

(*d*) The names of the appellant and of the respondents cited;

(*e*) The parties present and heard;

(*f*) A clear specification of the order made and relief granted or other determination of the appeal.

The decree shall also state by what parties, and in what proportions the costs of the action are to be paid.

to be sealed;

The decree shall be sealed with the seal of the court.

and returned to court of first instance.

As soon as the decree is sealed all the proceedings in the case sent up to the Supreme Court on appeal (together with the petition of appeal and order thereon, if any, a copy of the judgment or judgments pronounced on appeal, and the decree of the Supreme Court) shall be forthwith returned to the court of first instance; which shall conform to and execute such decree in all particulars.

Execution of the decree passed in appeal.

777 When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the court which passed the decree against which the appeal was preferred; and such court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in an action.

CHAPTER LXII.

Of Pauper Appeals.

Pauper appeals.

778 Any person entitled under this Ordinance or any other law to prefer an appeal, who is unable to pay for the stamps required for the petition of appeal, may, on an application for that purpose made to the Supreme Court in accordance with the rules hereinbefore prescribed for applications for the admission of an appeal notwithstanding lapse of time, so far as the same are applicable, be allowed

to appeal as a pauper; provided that the court shall reject the application unless upon a perusal thereof, and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed from is erroneous or unjust; and provided further, that the question as to the pauperism of the applicant shall be inquired into and determined by the Supreme Court in the same manner as is prescribed for the case of an application in the court of first instance to be allowed to sue as a pauper; and provided lastly, that if the applicant was allowed to sue as a pauper in the court against whose decree the appeal is made, no further inquiry into his pauperism shall be necessary. unless the Supreme Court sees special cause to direct such inquiry.

CHAPTER LXIII.

Appeals to the Queen in Council.

Appeal to Queen in Council subject to rules.

779 Subject to such rules as may from time to time be made by Her Majesty in Council regarding appeals from the courts of this colony, and to the provisions hereinafter and in "The Courts Ordinance, 1889," contained, it shall be lawful for any person or persons, being a party or parties to any civil suit or action pending in the Supreme Court, to appeal to Her Majesty in Council against any final judgment, decree, or sentence, or against any rule or order made in any such civil suit or action, and having the effect of a final or definitive judgment, decree, or sentence.

Application to be made to Supreme Court.

780 Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Supreme Court to have the judgment, decree, sentence, rule, or order against which he is desirous so to appeal, brought before the Supreme Court collectively by way of review; and shall also give security for the payment of all costs of such hearing in review, which may be awarded to the respondent.

Such application must be made within two calendar months from the date of the judgment, decree, sentence, rule, or order complained of.

Petition for leave to appeal.

781 Every petition must state the grounds of appeal, and pray for a certificate, either that, as regards amount, or value, and nature, the case fulfils the requirements of section 42 of "The Courts Ordinance, 1889," or that it is otherwise a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition the court shall direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

The power of the court under this section in regard to issuing notice and hearing cause shown against the certificate may be exercised by a single judge sitting at Colombo.

When certificate granted court to hold hearing in review

782 If such certificate is refused, the petition shall be dismissed.

If the certificate is granted, then the court shall fix a day for hearing the case in review before all the judges of the court collectively holding general sessions at Colombo ; and seven days' notice of such day shall be given by the registrar to all parties.

The judgment, decree, order, or sentence of the Supreme Court after such hearing in review shall be pronounced, made, or passed, in accordance with the rules hereinbefore prescribed for the judgment and decree on appeal.

When party aggrieved may appeal from judgment in review, and to whom.

783 The person feeling aggrieved by such judgment, decree, order, or sentence in review, shall, if he desires to appeal therefrom, apply by petition to the Supreme Court within fourteen days after the same shall have been pronounced, for leave to appeal therefrom to Her Majesty in Council, and with this petition he shall present his petition of appeal to Her Majesty in Council ; and shall within three months from the date of such judgment, decree, order, or sentence—

(*a*) Give security for the prosecution of the appeal and for the payment of all such costs as may be awarded by Her Majesty in Council to the party respondent ; and

(*b*) Deposit the amount required to defray the expense of translating, transcribing, indexing, and transmitting to Her Majesty in Council a correct copy of the whole record of the action ; except

(1) Formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being ;

(2) Papers which the parties agree to exclude ;

(3) Accounts or portions of accounts which the officer empowered by the court for that purpose considers unnecessary, and the parties have not specifically asked to be included ; and

(4) Such other documents as the Supreme Court may direct to be excluded ;

and when the appellant prefers to print in Ceylon the copy of the record, except as aforesaid, he shall also, within such time as is in the first clause of this section mentioned, deposit the amount required to defray the expense of printing such copy.

Of the security to be given by appellant.

Proviso.

The nature, amount, and sufficiency of the security to be given by the appellant under section 780 and this section shall be determined by the Supreme Court upon the motion of the appellant made by petition, of which notice shall be duly served on the respondent ; provided that such security shall in no case exceed the sum of three thousand rupees, and shall be given either by a surety or sureties or by a mortgage of immovable property situate and being within this colony, or by deposit and hypothecation by bond of a sum of money.

784 When such security has been completed and deposit made within the time in the last preceding section limited, then, and not otherwise, the Supreme Court shall make an order allowing the appeal, and the appellant shall be at liberty to prefer and prosecute his appeal to Her Majesty in Council, in such manner and under such rules as are observed in appeals made to the Queen in Council from the plantations or colonies.

Order on completion of security.

Provided, nevertheless, that any person feeling aggrieved by any order which may be made by, or by any proceedings of, the Supreme Court respecting the security to be taken upon any such appeal as aforesaid, shall be and is authorized by petition to Her Majesty in Council to apply for redress.

Proviso.

785 At any time before allowing the appeal, the Supreme Court may upon cause shown revoke the acceptance of any such security, and make further directions thereon.

Revocation of acceptance of security.

786 If at any time after the appeal is allowed, but before the transmission of the copy of the record to Her Majesty in Council, such security appears inadequate or further payment is required for any of the purposes mentioned in section 783, sub-section (*b*), the Supreme Court may order the appellant to furnish, within a time to be fixed by the court, other and sufficient security, or to make, within like time, the required payment.

Power to order further security or payment.

787 If the appellant fails to comply with such order, the proceedings shall be stayed, and the appeal shall not proceed without an order in that behalf of Her Majesty in Council, and in the meantime execution of the decree appealed against shall not be stayed.

Failure to comply with order.

788 In all cases of appeal allowed by the Supreme Court or by Her Majesty, such court shall, on the application of the party or parties appellant, certify and transmit to Her Majesty in her Privy Council a true and exact copy of all proceedings, evidence, judgments, decrees, and orders, save as hereinbefore excepted, had or made in such causes so appealed, so far as the same have relation to the matter of appeal, such copies to be certified under the seal of the said court.

Court to transmit copy of proceedings.

789 When the copy of the record has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount deposited under section 783.

Refund of balance of deposit.

CHAPTER LXIV

Enforcement of Judgments and Orders of Her Majesty in Council.

790 Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Supreme Court.

Judgment of Privy Council how enforced

Such court shall, when the court which made the first decree appealed from is the Supreme Court, enforce and execute such order in the manner and according to the rules applicable to the enforcement and execution of its original decrees; but when the court which made the first decree appealed from is a court other than the Supreme Court, shall transmit the order of Her Majesty to the court which made such decree, or to such other court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the court to which the said order is so transmitted shall enforce and execute it accordingly, in the manner and according to the rules applicable to the enforcement and execution of its original decrees.

Order enforcing Privy Council order, how far appealable.

791 The orders made by the court which enforces or executes the order of Her Majesty in Council relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such court relating to the enforcement or execution of its own decrees.

PART IX.

OF SUMMARY PROCEDURE IN RESPECT OF CONTEMPTS OF COURT.

CHAPTER LXV.

Summary procedure in case of contempt to be as follows:

792 In all courts the summary procedure to be followed for the exercise of the special jurisdiction to take cognizance of and to punish summarily offences of contempt of court, and offences declared by this Ordinance to be punishable as contempts of court, shall be that which is prescribed in the sections next immediately following.

Summons to accused.

793 The court shall issue a summons to the accused person in the form 132 in schedule II. hereto or to the like effect, which summons shall state shortly the nature of the alleged offence and the information or grounds upon which the summons is issued, and shall require the accused person to appear before the court on a day named in the summons to answer the charge.

At time of issue of summons court may issue warrant of arrest.

794 It shall be competent to the court simultaneously with issuing such summons, or at any time after such summons has been issued, if it has reason to believe that the attendance of the accused person at the time appointed in the summons to answer the charge cannot otherwise be secured, to issue a warrant for his arrest in the form 133 in schedule II. hereto or to the like effect, which warrant shall recite the issuing of the summons, and the day appointed therein for the hearing of the charge, and shall command that the accused person after arrest be kept in custody until that day, and be then brought before the court to answer the charge

in the summons; provided that the person arrested shall at any time after arrest be enlarged upon sufficient security, to an amount endorsed on the warrant by the court, either of the accused person's own bond or that of another person, for his appearance in court on the day named in the summons, being furnished to the officer in whose custody he is.

Proviso.

795 When the information upon which the charge is based is furnished to the court, either wholly or in part, by the personal observation of the judge of the accused person's behaviour and language in his presence, the judge shall at the time record a minute of the facts so observed by him, which shall be admissible as evidence at the hearing of the charge, and in such case no such summons as in section 793 is mentioned shall be necessary, but the accused person may be forthwith committed to jail or admitted to bail as in the last preceding section provided, and all further steps shall be taken in manner herein provided, as though such summons or summons and warrant as aforesaid had been issued.

Judicial officer to record minute of facts observed by him.

796 On the day appointed by the court for the hearing of the charge, or on any subsequent day to which the hearing may have been adjourned in consequence of the previous non-attendance of the accused person, the court shall commence the hearing by asking the accused person whether or not he admits the truth of the charge; and if he does not admit the truth of the charge, the court shall proceed to take evidence (if any) which may be necessary in addition to the court minute under section 795 to establish the charge; and also to take the accused person's statement, and any evidence which he may offer in answer to the charge.

On day of hearing court may ask accused if he admits truth of charge.

797 If the accused person admits the charge, or if after taking the evidence on both sides, and considering the court minute and hearing the accused person's explanation the court finds the accused person guilty of the charge, it shall make out a conviction in the form 134 in the second schedule hereto or to the like effect, which shall recite the materials on which the conviction is founded, and adjudicate upon the material facts of the accused person's behaviour and language with so much of the surrounding circumstances as caused these to constitute the offence of contempt of court. And the sentence passed by the court shall be recorded on this conviction. If the court finds the accused person not guilty of the charge laid, it shall dismiss the charge, and shall make and record an order to that effect.

Form of the conviction and sentence thereon.

Court may dismiss charge.

798 An appeal shall lie to the Supreme Court from every order, sentence, or conviction made by any court in the exercise of its special jurisdiction to take cognizance of, and to punish by way of summary procedure the offence of contempt of court, and of offences by this Ordinance made punishable as contempt of court; and the procedure on any such appeal shall follow the procedure laid down in the Criminal Procedure Code regulating appeals from orders made in the ordinary criminal jurisdiction of district and police courts.

Appeal to Supreme Court.

Procedure for carrying out sentence of court in case of conviction for contempt.

799 Every sentence of fine or imprisonment passed by a court in exercise of its special jurisdiction to take cognizance of, and to punish by way of summary procedure the offence of contempt of court, and offences by this Ordinance made punishable as contempt of court, shall be carried into effect in the same manner and according to the same procedure as is provided in the Criminal Procedure Code for carrying into effect sentences of fine or imprisonment passed by any court in the exercise of its ordinary criminal jurisdiction.

Sentences to be imposed under this chapter.

800 The following sentences of fine or imprisonment, as the case may be, may be imposed on conviction for contempt under this chapter by the following courts respectively, viz.:

By the Supreme Court.—Imprisonment, either simple or rigorous, until the contempt is purged, or for such period as the court directs, and fine not exceeding five thousand rupees in addition thereto or in lieu thereof.

By a district court.—Fine not exceeding one thousand rupees, or imprisonment, either simple or rigorous, for a period not exceeding six months.

By a court of requests.— Fine not exceeding one hundred rupees, or imprisonment, either simple or rigorous, for a period not exceeding three months.

PART X.

SPECIAL PROCEDURE FOR COURTS OF REQUESTS.

CHAPTER LXVI.

COURTS OF REQUESTS.

General.

Rules for courts of requests.

801 The following special rules as to procedure in courts of requests shall be taken as limiting and controlling the general provisions hereinbefore contained, but so far only as any such provisions are either expressly or impliedly applicable to such courts. Such general provisions shall apply to courts of requests in all respects whenever they are not inconsistent with the special rules in this chapter contained; but where there is any such inconsistency, the special rules herein contained shall apply.

Pleadings.

Pleadings.

802 The pleadings in courts of requests shall be limited to the following:

(*a*) The plaint of the plaintiff;

(*b*) The answer and claim in reconvention (if any) of the defendant;

(*c*) The plaintiff's reply to the defendant's claim in reconvention.

But where there is no claim in reconvention there shall be no further pleadings beyond the answer.

Plaint to be numbered.

803 The plaint, or statement by way of plaint, shall bear the serial number of the court in the order in which, and the date of the day and year on which, it was filed, and shall state the names and residences of the parties.

Plaint to state cause of action.

804 The plaint must state in a plain and direct manner the facts constituting the cause of action.

What causes of action may be joined.

805 The plaintiff may unite in the same plaint two or more causes of action when they all arise—

(1) Out of the same transaction or transactions connected with the same subject of action; or

(2) Out of contract express or implied.

But it must appear on the face of the plaint that all the causes of action so united are consistent with each other, that they entitle the plaintiff to the same kind of relief, and that they affect all the parties.

Summons to issue.

806 Upon such plaint or statement being filed as aforesaid the chief clerk shall, by a note thereon, appoint a day for the appearance of the defendant, and shall inform the plaintiff or his proctor or advocate thereof; and shall also issue a summons for the appearance of the defendant, stating therein the names and residences of the parties, the substance of the claim, and the number of the case. Every such summons shall be in the form No. 16 in the second schedule hereto.

Summons.

Of the transmission of the summons.

807 All summonses, orders, and other process issuing from any court of requests shall be signed by the chief clerk of the court, and shall be transmitted to any fiscal or deputy fiscal throughout the island for service or execution: Provided that where it shall be made to appear to the commissioner that service of any summons, order, or process (excepting writs of execution and of possession) may be more conveniently or speedily effected otherwise than by transmitting the same to a fiscal or deputy fiscal, it shall be lawful for the commissioner, by endorsement on any such summons, order, or process, to direct that the same may be served by any person named therein.

Of the service of summons.

808 Sections 59 to 71, both inclusive, and chapter XXIII. of this Ordinance shall apply to the service, return, and proof of service of summons of the courts of requests, so far as they are not inconsistent with the provision in the last preceding section contained.

Proceedings on Appearance.

The defendant to appear and admit or deny the claim.

809 At the place and on the day specified in the summons, the defendant shall be called upon to admit or deny the plaintiff's claim:

If the defendant admits the claim.

(*a*) If the defendant shall admit the claim, the commissioner shall enter such admission on the record in the form 135 in schedule II. hereto, and shall require

the defendant to sign the same, provided that it shall be lawful for a defendant, who cannot conveniently attend the court, to forward his admission to the chief clerk, signed by himself in the presence and under the attestation of a justice of the peace or notary public; and upon the entry or receipt of such admission the commissioner shall enter judgment for the plaintiff accordingly.

If the defendant denies the claim.

(*b*) If the defendant shall deny the claim, he shall be called upon to plead to the same forthwith, or within such time as the court on cause shown may allow; and he shall either state his defence orally to the commissioner as in section 73 provided, who shall enter the substance thereof by way of answer on a separate sheet of paper in the record upon a proper stamp being supplied by the defendant, or he shall deliver to the chief clerk an answer in writing duly stamped, setting out his defence and any claim in reconvention which he may have against the plaintiff. Such answer shall be signed by the defendant, his proctor, or advocate, and shall be dated and forthwith filed of record by the chief clerk.

Of the answer.

810 The answer shall contain a specific denial of each material allegation of the plaint, which the defendant does not admit, and any such allegation not so denied shall be taken to be admitted. It may also set forth in a plain and direct manner new matter constituting one or more defences or claims in reconvention.

Of the claim in reconvention.

811 If the defendant pleads a claim in reconvention with his answer, the plaintiff shall be called upon to admit or deny the same. If he denies the claim in reconvention, the plaintiff shall be required forthwith, or at such further time as the commissioner shall fix, to plead thereto, and the provisions of sub-section (*b*) of section 809 and of section 810 shall, so far as applicable, apply, *mutatis mutandis*, to the plaintiff's reply to the defendant's claim in reconvention.

Of the reply thereto.

Provided, however, that in no case shall the plaintiff set out in his reply new matter amounting to a new cause of action, if he could have pleaded the same in his original plaint.

Of entering admission.

812 If the plaintiff admits the claim in reconvention, the commissioner shall enter such admission of record, and shall require the plaintiff to sign the same.

Joinder of Issue.

Of the joinder of issue.

813 As soon as the answer, or the reply to the claim in reconvention, if any, has been filed, the chief clerk shall enter a joinder of issue between the parties on the record.

Where new matter is set up by way of defence either in the answer or in the reply to the claim in reconvention, every material allegation of facts shall be deemed to have been denied by the opposite party.

Miscellaneous Provisions relating to Pleadings.

Account or instrument for payment of money.

814 For the purpose of setting forth a cause of action, or claim in reconvention founded upon an account or upon an instrument for the payment of money only, it is sufficient for the party to deliver the instrument, or a copy of the account, to the court, and to state that there is due to him thereupon from the adverse party a specified sum which he claims to recover or set off.

Immaterial variance to be disregarded.

815 A variance between an allegation in a pleading and the proof shall be disregarded as immaterial, unless such proof discloses a new cause of action, or the court is satisfied that the adverse party has been misled thereby to his prejudice.

Amendment of pleadings.

816 The court shall, upon application, allow a pleading to be amended at any time before trial, or during the trial, if substantial justice will be promoted thereby. Where a party amends his pleading after joinder of issue, and it is made to appear to the satisfaction of the court that an adjournment is necessary to the adverse party in consequence of the amendment, an adjournment shall be granted. The court may also in its discretion, as a condition of allowing an amendment, require the payment of costs to the adverse party.

Consequence of neglect to plead claim in reconvention.

817 Where the defendant in an action for breach of a contract neglects to interpose a claim in reconvention consisting of a cause of action in his favour for a like cause, which might have been allowed to him at the trial of the action, he and every person deriving title thereto through or from him are for ever thereafter precluded from maintaining an action to recover the same.

The last section qualified.

818 The prohibition in the last section contained does not extend to the following cases :

(*a*) Where the amount of the claim in reconvention is over one hundred rupees ;

(*b*) Where the claim in reconvention consists of a judgment rendered before the commencement of the action in which it might have been interposed ;

(*c*) Where the claim in reconvention is for unliquidated damages ;

(*d*) Where the claim in reconvention consists of a claim upon which another action was pending at the time the action was commenced ;

(*e*) Where judgment is taken against the defendant without personal service of the summons upon him, or an appearance by him.

Judgment upon claim in reconvention.

819 Where a claim in reconvention is established which equals the plaintiff's claim, the judgment must be in favour of the defendant ; where it is less than the plaintiff's claim, plaintiff must have judgment for the residue only ; where it exceeds the plaintiff's claim, the defendant must have judgment for the excess, or so much thereof as is due from the plaintiff.

Fixing Day of Trial.

Fixing the cause for trial.

820 Immediately after the parties have furnished the chief clerk with their list of witnesses, the chief clerk shall fix a day for the trial of the action, and apprise the parties or their proctors, or advocates, thereof, and shall enter a minute thereof on the record ; and all actions fixed for trial shall be entered in their proper order in the trial roll to be for that purpose kept by the chief clerk, and shall be taken up for trial in the order in which they are so entered. Provided, however, that it shall be competent for the commissioner, upon cause shown, to take up any action and try the same out of its turn.

Adjournments.

Of adjournments at the instance of the parties.

821 Whenever the commissioner shall be satisfied by affidavit or otherwise that either party is not ready to proceed to trial by reason of the absence of any material witness (such witness not being kept away by collusion), or for other sufficient cause, it shall be lawful for the commissioner to adjourn the trial of the action to a time fixed by the commissioner, once or oftener, upon such terms as the circumstances of the case may render necessary.

Provided that no adjournment shall be allowed for a longer period than six weeks, except with the consent of both the parties ; but the mere consent of the parties or of their proctors or advocates shall not be deemed sufficient ground for granting an adjournment unless good cause for such adjournment to the satisfaction of the court be likewise shown.

The court may, upon adjournment, order examination of witnesses.

822 Upon granting an application for adjournment the commissioner may in his discretion, or upon the application of either party, direct that any witness who is in attendance be then examined, and the testimony of a witness so examined shall be recorded, and may be read at the trial as the evidence of such witness.

Of Default of Appearance.

Of proceedings on default.

823 Where default in appearing or pleading is made by the parties plaintiff or defendant respectively in an action in the court of requests, the provisions of chapter XII. of this Ordinance shall apply, so far as they are not inconsistent with the procedure in this chapter prescribed.

Interrogatories.

Provision as to interrogatories not to apply.

824 Sections 94 to 100, both inclusive, shall not apply to courts of requests.

Of the Attendance of Witnesses.

The attendance of witnesses.

825 The process of courts of requests for compelling the attendance of witnesses shall be by summons, with or without a clause requiring the production of documents in their possession or control ; and every such summons shall be as near as is material in the form 32 in schedule II. hereto.

826 The provisions of chapter XVII. of this Ordinance shall apply to courts of requests. The attendance of witnesses continued.

Of the Trial.

827 On the day of trial the commissioner shall hear and determine the action according to law. The trial.

828 A full and complete record shall be kept of the examination of the parties, the evidence of the witnesses, and of all other proceedings had in the action. Record of the proceedings.

829 The provisions of chapter XIX. of this Ordinance shall, so far as they are not inconsistent with the provisions in this chapter contained, apply to courts of requests. Of the trial.

Of the Judgment.

830 Judgments in courts of requests cases shall be pronounced in open court, be reduced into writing on the record, and be signed by the commissioner; and the provisions of chapter XX. of this Ordinance shall, so far as they are not inconsistent with the provisions in this chapter contained, apply to courts of requests. Judgments and decrees.

831 The provisions of chapters LVIII., LIX., LX., LXI., and LXII., with reference to appeals and the stay of execution pending appeal, shall, so far as they are not inconsistent with the provisions of this chapter, apply to courts of requests. Appeal and stay of execution pending appeal.

Executions.

832 The provisions of chapter XXII. of this Ordinance shall apply to all executions from courts of requests, so far as they are not inconsistent with the provisions in this chapter contained. Executions.

Taxation of Costs.

833 Before any writ of execution shall be issued as aforesaid, the chief clerk shall, at the request of the party applying for the writ, forthwith tax the costs and expenses of the action as against the adverse party, and shall enter a note of such taxation and of the amount thereby allowed on the record of the case; and such costs and expenses shall in all cases be taxed and payable according to the rates specified in schedule III. hereto. Taxation of costs.

CHAPTER LXVII.

Miscellaneous.

834 No judge, magistrate, or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his court. And where any matter is pending before a court having jurisdiction therein, or believing in good faith that it has such jurisdiction, the Privilege from arrest of judges, parties, proctor, and advocates.

parties thereto and their proctors and advocates shall be exempt from arrest under civil process while going to or attending such court for the purpose of such matter, and while returning from such court.

Civil court may send cases for investigation to police court, when.

835 When in a case pending before any court there appears to the court sufficient ground for sending for investigation to a police magistrate a charge of any such offence as is described in sections 190, 193, 196, 197, 202, 203, 204, 205, 206, 207, 452, 459, 462, 463, 464, or 466 of the Ceylon Penal Code, which may be made in the course of any other action or proceeding or with respect to any document offered in evidence in the case, the court may cause the person accused to be detained till the rising of the court, and may then or sooner send him in custody to the magistrate or take sufficient bail for his appearance before the magistrate. The court shall send to the magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such magistrate.

The magistrate shall receive such charge and proceed with it according to law.

Warrant of arrest may be cancelled on ground of illness of party.

836 At any time after a warrant of arrest has been issued under this Ordinance, the court may cancel it on the ground of the serious illness of the person against whom the warrant was issued.

Judgment-debtor under arrest may be released on ground of illness :

837 When a judgment-debtor has been arrested under this Ordinance, the court may release him, if in its opinion he is not in a fit state of health to undergo imprisonment.

When a judgment-debtor has been committed to jail, he may be released therefrom—

(*a*) By the Inspector-General of Prisons or by any two visitors of the jail, on the ground of his suffering from any infectious or contagious disease ; or

(*b*) By the committing court or any court having jurisdiction in the place at which such jail may be situate, on the ground of his suffering from any serious illness.

but may be re-arrested.

838 A judgment-debtor released under the last preceding section may be re-arrested, but the period of his imprisonment shall not in the aggregate exceed six months.

SCHEDULE I.

Laws, Ordinances, Sections of Ordinances, and Rules of Court repealed.

Laws, Ordinances, &c.	Title.	Extent of Repeal.
The Law whereby a plaintiff is entitled in certain cases to an interlocutory or provisional decree adjudging the defendant to pay the amount of the plaintiff's claim under proper security that the plaintiff shall repay the same with interest in case by the final judgment on the merits such sum shall not be found to be due, or judgment shall be given for the defendant	The Law of Namptissement or Provisional Sentence	The whole

Laws, Ordinances, &c.	Title	Extent of Repeal.
Ordinances, &c.		
Reg. 18 of 1823 ...	Interest	The whole
Ord. 7 of 1835 ...	Edictile Citation ..	The whole
3 of 1846 ...	Evidence	Sections 7, 8, 9, 10, 11, 12
4 of 1847 ...	Administration of Justice ...	The whole
5 of 1852 ...	Kandyan Law	Section 3, proviso as to provisional sentence, and section 6
9 of 1852 ...	Evidence	Sections 7, 15
7 of 1853 ...	Insolvency	Section 165
8 of 1856 ...	Recovery of Judgments ...	The whole
15 of 1856 ...	Rules of District Courts ...	The whole
9 of 1859 ...	Do. Courts of Requests ...	The whole
18 of 1864 ...	Do. District Courts ...	The whole
15 of 1866 ...	Arbitration	Sections 10–19 and 30–33 inclusive, and so much of sections 20–29 as regards voluntary references
4 of 1867 ...	Fiscals	Sections 18–25 and 29–80 inclusive, so far as they are now in force
7 of 1871 ...	Trustees	Sections 7, 8, 10, 11, 12
22 of 1871 ...	Prescription	Section 5
1 of 1873 ...	Lunacy	Section 7
15 of 1876 ...	Matrimonial Rights ...	Sections 15, 20, 21
24 of 1884 ...	Insolvency (amendment) ...	Section 5
19 of 1885 ...	Salaries of Public Officers ...	So much as relates to seizure in execution of the salaries of public officers
5 of 1887 ...	Claims in Execution ...	The whole

Civil Procedure Code.

Laws, Ordinances, &c	Title.	Extent of Repeal.
Rules and Orders.		
Oct. 1, 1833 ...	Proceedings in appeal before the Supreme Court (pp. 55–57)	The whole, so far as the same are now in force
Oct. 1, 1833 ...	Miscellaneous Rules and Orders (p. 59)	The whole
Oct. 1, 1833 ...	For regulating the form of proceeding in District Courts (section I., pp. 60–71)	The whole, so far as the same are now in force
Oct. 1, 1833 ...	Idiots and Lunatics (section III., p. 76)	The whole
Oct. 1, 1833 ...	Testamentary Jurisdiction (section IV., pp. 76–80)	The whole, so far as the same are now in force
Oct. 1, 1833 ...	Matrimonial Jurisdiction (section V., p 80)	do.
Oct. 1, 1833 ...	Assessors (section VII., pp. 81–82)	do.
Oct. 1, 1833 ...	Appeal (section VIII., pp 83–85)	do.
Oct. 1, 1833 ...	Forms (pp. 86–93, 98–104) ...	do.
Oct. 1, 1833 ...	Fees (pp. 105–107) ...	The whole
Oct. 4, 1833 ...	Service of process (p. 107) ...	The whole
Nov. 20, 1833 ...	Appeal (No. 2, p. 108) ...	The whole
April 25, 1834 ...	Appeal Stamps (p. 109) ...	The whole
June 4, 1834 ...	Taxation of costs (No. 4, p. 110)	The whole
Aug. 4, 1834 ...	Costs in pauper cases (No. 6, p 110)	The whole
Oct. 9, 1834 ...	Taxation of costs (p. 112) ...	The whole
Dec. 3, 1834 ...	Batta to prisoners for debt (No. 10, p. 113)	The whole
Nov. 25, 1835 ...	Stamps on Pleadings (No. 12, p 141)	The whole
May 24, 1837 ...	Costs in Appeal (No. 7, p. 115)	The whole
June 29, 1837 ...	Collective Cases from Circuit (No. 8, p. 115)	The whole
March 5, 1838 ...	Summary process in urgent cases (pp. 117–118)	The whole
June 20, 1838 ...	Extension of above (p. 118) ...	The whole
July 5, 1842 ...	District Court Procedure (pp. 128-130)	The whole
Dec. 16, 1842* ...	Appeals of Privy Council (p. 132)	
June 23, 1843 ...	Plea of prescription (p. 133) ...	The whole
Dec. 12, 1843 ...	Appeals (pp. 133–134) ...	The whole
June 17, 1844 ...	Ordinary Civil Jurisdiction (pp. 134, 135)	The whole
June 17, 1844 ...	Appeal Sittings (p. 135) ...	The whole
Dec. 30, 1845 ...	Notice of Taxation (p. 155) ...	The whole
Dec. 30, 1845 ...	Advocates' Fees (p. 155) ...	The whole
Dec. 6, 1845 ...	Withdrawal (p. 156) ...	The whole
Dec 18, 1845 ...	Burden of proof (p. 156) ...	The whole
Jan. 6, 1846 ...	Proctors' Fees (pp. 157–159) ...	The whole

* It seems doubtful whether the Code intended to retain any portion of these rules.

SCHEDULE II.

No. 1.—Form of Notice of Motion for Transfer of an Action or Matter.

(See Section 10 and Section 46 of "The Courts Ordinance.")

In the Supreme Court of the Island of Ceylon.

(*Title of the Action, &c., showing in what Court it is pending.*)

Take notice that the accompanying affidavit will be read and a motion made before the Honourable the Supreme Court at Colombo (*or as the case may be*) on the ——— day of ———, 18—, at ——— o'clock of the forenoon, or so soon thereafter as counsel may be heard, on the part of the defendant (*or as the case may be*) that this action (*or* prosecution *or* matter) may be withdrawn from (*name the court or place in which the action, &c., is pending*) and may be transferred to (*name the court or place to which transfer is desired*); and that the plaintiff (*or as before*) may be ordered to pay to the applicant his costs of, and occasioned by, this application.

This ——— day of ———, 18—.

Signed ———,
Name and address of Proctor
(*or* Party giving notice).

To (*name and address of Proctor or Party to be served*).

(Annex to this notice copy of the affidavit on which motion is to be made.)

No. 2.—Form of Affidavit in support of Motion for Transfer.

(See Section 10 and Section 46 of "The Courts Ordinance.")

(*For formal parts see No. 75.*)

1.—(*State proceedings in court of institution.*)

2.—(*Where the motion is for transfer to a court of inferior jurisdiction.*) The plaintiff's claim is for (*state nature and particulars of claim as furnished to defendant and show that the action is within the jurisdiction of the court to which transfer is desired*).

3.—(*In the like case.*) The plaintiff has no visible means of paying my costs should judgment not be given for the said plaintiff.

4.—(*Show means of knowledge.*)

5.—(*Where the motion is for transfer to a court of superior jurisdiction.*) I am advised, and verily believe, that upon the trial of the said action several difficult questions of law are likely to arise, and amongst others the following: (*here state the questions likely to arise, and verify the facts raising them*).

6.—(*State special reasons, if any, for transfer.*)

7.—(*Show means of knowledge.*)

8.—(*Where defendant moves.*) I have a good defence to this action upon the merits, and this application is not made for the purpose of embarrassing or delaying the plaintiff, but *bonâ fide* and for the purpose of obtaining a proper trial of the said action.

No. 3.—Form of Notice to a Person who the Court considers should be joined as a Co-plaintiff.

(See Section 18.)

(*Title.*)

To ———, of ———.

Whereas the above-named (*plaintiff*) has instituted the above-named action against the above-named (*defendant*) for ———.

And whereas it appears to this court necessary that you should be added as a plaintiff in the said action, in order to enable this court effectually and completely to adjudicate thereon :

Take notice that you should on or before the ——— day of ———, 18 —, signify to this court whether you consent to be so added.

This ——— day of ———, 18 —. *Signed* ———,
District Judge.

No. 4.—Form of Authority for the Appearance of one or more of several Plaintiffs or Defendants on behalf of the other or others of them.

(See Section 23.)

(*Title.*)

I, ———, of ——— (*or*, we, ———, of ———), plaintiff (*or* defendant *or* plaintiffs *or* defendants) in the above-named action, do hereby appoint ———, of ——— (and ———, of ———), who is (are) also (plaintiff *or* defendant) in the said action, to appear, plead, and act for me (us) therein.

Witness my (our) hand (hands) this ——— day of ———, 18 —.

Signed ———.
Address ———.

No. 5.—Form of General Power of Attorney.

(See Section 25.)

I, ———, of ———, do hereby constitute and appoint ———, of ———, my true and lawful attorney for me and in my name and on my behalf to appear, sue, or answer, and to receive all process in any action, appeal, or other judicial proceeding whatsoever in any court, and generally to act in all such proceedings in any way in which I might, if present, be permitted or called on to act.

Witness my hand this ——— day of ———, 18 —.

Signed ———.
Address ———.

No. 6.—Form of Appointment of a Proctor by the Attorney-General.

(See Section 27.)

I, the undersigned, ———, Attorney-General for the Island of Ceylon, do hereby authorize and appoint ———, gentleman, one of the Proctors of the Supreme Court of the said Island (*or* of the

District Court of ———), to appear for me before the District Court of ——— in a certain action to be instituted in the said court in my name at the instance of the Crown against one ——— (*or* in a certain action instituted in the said court by one ——— against me as representing the Crown), wherein (*state what the action is*) to (sue *or* defend, *as the case may be*) and to represent the Crown therein, and generally to do and perform all such acts, matters, and things as may be necessary to be done and performed in and about the premises, and, if need be, to appeal from any judgment or order of the said District Court in the said action; hereby promising to ratify and confirm whatsoever the said proctor may lawfully do herein.

Given under my hand at ——— this ——— day of ———, 18 —.

The address for service of the said proctor is at ———.

Signature ———.

No. 7.—Form of Appointment of a Proctor.

(See Section 27.)

Know all men by these presents that I, *A. B.*, of ——— (*or* we, *A. B.*, of ———, and *C. D.*, of ———), have nominated, constituted, and appointed, and do hereby nominate, constitute, and appoint ———, Proctor of the Honourable the Supreme Court of the Island of Ceylon (*or* of the District Court of ———, *as the case may be*), to be ——— Proctor, and for ——— and in ——— name and behalf before the ——— to appear and therein to (sue *or* defend, *as the case may be, showing what the action is*).

And to receive and to take all moneys that may be paid to him by the said ——— in the said action, and to move for and obtain in his name any order or orders from the said court for any payments of any sum or sums of money that may be deposited therein in respect of ———, and to give all necessary receipts, releases, and discharges therefor. And, if need be, to refer the case to the award and decision of arbitrators and to name an arbitrator for ———, and for that purpose to sign any motion, submission, or bond; or, if necessary, to allow and consent to a judgment being entered against ——— as to ——— said proctor shall appear fit and proper; and against any judgment, order, sentence, or decree interlocutory or final of the said ——— Court to appeal; and every bond or recognizance whatsoever necessary in the course of proceedings for the prosecution of such appeal for and in ——— name and as ——— act to sign, and upon any judgment or order of the said ——— Court to proceed to execution against the person and property of the said ———.

And ——— do further authorize and empower ——— said proctor to take and use all lawful ways and means, and to do and perform all such acts, matters, and things as may be necessary in and about the premises which ——— being personally present might or could lawfully do, and, if necessary, one or more proctor or proctors, or an advocate or advocates, to appoint, and again at pleasure such appointment to revoke. And ——— further promise and agree to release all kinds of irregularities, and to ratify, confirm, and allow all and whatsoever the said proctor or his substitute or substitutes, or the said advocate or advocates, shall do herein.

Witness ——— hand at ——— this ——— day of ———, One thousand Eight hundred and ———.

The address for service of the said proctor is at ———.

Signature ———.

No. 8.—Form of Revocation of such Appointment.

(See Section 27.)

(*Title.*)

Know all men by these presents that I, *A. B.*, of ——— (*or* we, *A. B.*, of ———, and *C. D.*, of ———), having received the leave of the above-named court in that behalf, do (and each of us doth) hereby revoke and cancel the paper writing filed in the above-named action, and dated (*&c.*), whereby I (we) have nominated and appointed ———, of ———, to be my (our) proctor (proctors) in the said action; and that the said ——— has (have) from this date ceased to be my (our) proctor (proctors) in the said action; and the said paper writing shall be henceforth of no force or effect.

The ——— day of ———, 18 —. Signed as the Proxy.

No. 9.—Form of Notice to Appoint a new Proctor in place of one ceasing to act.

(See Section 28.)

(*Title.*)

To *Y. Z.*, the defendant (*or* plaintiff) above named.

Take notice that you are hereby required to appoint another proctor in place of *A. B.*, your former proctor of record, who (died *or* was removed, *or* suspended, *or*) became incapable to act by reason of (*state reason as the case may be*) on or about the ——— day of ———, 18—; and cause notice of such new appointment to be given to the undersigned at the under-written address.

The ——— day of ———, 18 —.

Signed ———,
Party (*or* Proctor).
Address ———.

No. 10.—Form of Notice of Substitution of new Proctor in place of one ceasing to act.

(See Section 28.)

(*Title.*)

To (*party or proctor issuing the last preceding notice*).

Take notice that the undersigned has been substituted (*or, where the party himself gives the notice*, that I, the said *Y. Z.*, have substituted *name and address of new proctor*) in the place of *A. B.*, formerly proctor of record for (defendant *or* plaintiff) in the above-named action.

The ——— day of ———, 18 —.

Signed ———,
Party (*or* Proctor).
Address ———.

No. 11.—Form of Appointment of Agent to accept Service of Summons and other Process (General and Special).

(See Section 30.)

(*Where the appointment is special, head with title of the Action.*)

I, ———, of ———, do hereby constitute and appoint ———, of ———, my agent to receive on my behalf the service of all summonses and other processes in (any action, appeal, or other civil proceeding whatsoever in any court, *or where the appointment is special substitute* in the above-named action).

Witness my hand this ——— day of ———, 18 —.

The address for service of the said ——— is at ———.

Signed ———

——— *Address* ———

No. 12.—Warrant of Attorney to confess Judgment: and Defeasance thereon.

(See Sections 31, 32.)

To *X. Y.*, Proctor of the Supreme Court (*or*, of the District Court of ———) or to any other proctor of the same court.

These are to desire and authorize you, the proctor above-named, or any other proctor of the said court, to appear for me, *C. D.*, of ———, (*or*, for us, *C. D.*, of ———, and *E. F.*, of ———, or either of us), at any time in the ——— court of ——— (*or as the case may be*) and to receive summons for me (*or* us, *or* either of us, *as the case is*) in an action for ——— rupees for money found to be due and payable from me (*or as before*) to *A. B.* on an account stated between us (*or*, on a bond made by me, the said *C. D.* to *A. B.* in the penal sum of ——— rupees, *or as the case is*) at the suit of the said *A. B.*, his heirs, executors, or administrators, and thereupon to confess the same action or else to suffer judgment by default or otherwise to pass against me (*or as before*) therein and to be thereupon forthwith entered up against me (*or as before*) of record in the said court for the said sum, together with costs of action. And I (*or as before*), the said *C. D.* (and *E. F.* and each of us), do hereby further authorize and empower you, the said proctor, after the said judgment shall be entered up as aforesaid for me and in my name (*or as before*, for us and in our or either of our names), to sign and execute a good and sufficient release or releases in the law to the said *A. B.*, his heirs, executors, and administrators of all and all manner of appeals or proceedings by way of appeal, and all benefit and advantage thereof, and defects and imperfections whatsoever had, made, committed, done, or suffered in, about, touching, or concerning the said judgment or any proceedings whatsoever in any way concerning the same. And for what you, the said proctor, shall do or cause to be done in the premises or any of them, this shall be to you a sufficient warrant and authority.

In witness whereof I (*or* we) have hereto set my hand (*or* our hands) the ——— day of ———, 18 —.

(Signed) *C. D.*

Signed by the above-named *C. D.* in my presence. And I hereby declare myself to be proctor for the said *C. D.*, and that I subscribe my name as such his proctor; and that I have read and explained the contents of the above-written warrant of attorney to the said *C. D.*, and that he, the said *C. D.*, appeared to understand the nature and effect thereof.

(Signed) *G. H.*,
Proctor, ——— Court.

No. 13.—Form of Defeasance to be written thereon (when required).

MEMORANDUM. The within warrant of attorney is given to secure the payment from the within-named *C. D.* to the within-named *A. B.* of ——— rupees, with interest at ——— per cent. per annum, on the ——— day of ———, 18— (*or, if by instalments :* on the days and in manner following : that is to say, ——— rupees, part thereof, with interest for the same, on ———; ——— rupees, other part thereof, with interest for the same, on ———; and ——— rupees, residue thereof, with interest for the same as aforesaid, on———; *and if a bond was given, add:* according to the condition of a bond made by the said *C. D.* to the said *A. B.*, and bearing date ———, *or* even date with these presents). And it is hereby agreed that no action, execution, or other process or proceeding shall be commenced, sued out, or prosecuted against the said *C. D.*, his heirs, executors, or administrators, or against his or their lands, goods, or chattels, upon the judgment to be entered up in pursuance of the within warrant, until default shall be made in the payment of the sum above mentioned (*or* of some or any one of the instalments above mentioned) and interest for the same as aforesaid (and then only for the amount of the instalment or instalments which shall then be due and unpaid, together with interest for the same, and so from time to time as each instalment becomes in arrear, *or, if all the instalments are to become due on one default*, and then for the whole of the said ——— rupees, with interest, or such part thereof as shall not have been paid, notwithstanding the periods for the payment of the residue of the said instalments shall not have arrived). And it is hereby agreed that the said *A. B.* shall be at liberty, under any writ of execution to be issued on the said judgment, to levy the costs of registering the said judgment, suing out the execution thereon, fiscal's fees, and all other expenses of execution, and further that no appeal or other proceedings or any advantage be taken or attempted to be taken by the said *C. D.*, his heirs, executors, or administrators for or on account of the premises or any other matter, cause, or thing whatsoever relating to, touching, or in any wise concerning the issuing or executing of any such execution aforesaid, or any other proceedings which may be had or taken on the said judgment, or to enforce the execution thereof according to the true intent and meaning of these presents.

As witness our hands the ——— day of ———, 18—.

Witness : *G. H.*

———

C. D.
A. B.

No. 14.—Formal Parts of Pleadings.

Formal Parts of the Plaint.

(Common form)

(See Sections 40–46.)

In the { District Court / Court of Requests } of *Colombo* (*or as the case may be*).

A. B., of ——— (*names, descriptions, and addresses of all the plaintiffs, and if they or any of them sue in any representative capacity, state the capacity—e. g.*, "as executor of *C. D.*" *or* "administrator of the estate of *E. F.*"—*or if the plaintiff is a minor or lunatic appearing by his next friend or manager, say* "a minor, by *C. D.* of ——— "his next friend") .....Plaintiff,

Against

Y. Z., of ——— (*names, descriptions, and addresses of all the defendants as above, stating the capacity, if any, as above, in which any of them are sued*)..... .....Defendant.

The ——— day of ———, 18 —.

The plaint of the above-named plaintiff (*or* plaintiffs) (*and if the case is so, add:* appearing by *G. H.* his proctor) states as follows:

(*Here set forth the cause of action, and if there are more than one, thus:*)

First: For a first cause of action—1. That, *&c., &c., according to forms following.*

Second: And for a second cause of action—1. That, *&c., &c.*

Wherefore the plaintiff (*or* plaintiffs) prays for judgment against the defendant (*or* defendants) for the sum of ——— rupees, together with interest thereon at the rate of ——— per cent. per annum from the ——— day of ———, 18 — (*or, when the action is for the recovery of sums which became payable at different times or at varying rates of interest,* with interest at the rate of ——— per cent. per annum on ——— rupees from the ——— day of ———, 18 —, and at the rate of ——— on ——— rupees from the ——— day of ———, 18 —, until payment in full; *or, if the action is brought to recover specific goods,* and the plaintiff prays for a return of the said goods or their value, and ——— rupees as damages for their detention; *or, if the action is brought to recover lands or houses or the like,* and the plaintiff prays judgment for the said premises and for possession thereof, and ——— rupees as damages, *or* ——— rupees per month as mesne profits, *as the case may be*); together with the costs of this action; and for such further or other relief as to the court shall seem meet.

Signature ———

(of plaintiff's proctor where he appears by one; if otherwise, plaintiff must sign, and an officer authorized by the court in that behalf must verify the signature).

No. 15.—Formal Parts of the Answer and Replication.

(Common form.)

(See Sections 75 and 79.)

(*Title and number of action, names, descriptions, and addresses of parties, as in the plaint.*)

The ——— day ———, 18 —.

The answer of the above-named defendant (*or* defendants, *and if the case is so, add:* appearing by *G. H.* his proctor) states as follows:

(*Here set forth the defence or defences and claim in reconvention, if any, separately stating and numbering them; and where defendant prays for a declaration of title to land, conclude*) And the defendant prays for judgment for the said premises.

Signature ———

(as in plaint).

For Replication, follow this form as near as may be.

No. 16.—Form of Summons.

(See Sections 55–58.)

(*Title.*)

To the above-named defendant (*or* defendants).

Whereas the above-named plaintiff has instituted an action against you in this court, for (*state particulars of claim*), you are hereby summoned to appear in this court either in person or by proctor (*or,* in person) on the ——— day of ———, 18 —, at ten o'clock of the forenoon, to answer the above-named plaintiff. And you are

hereby required to take notice that in default of your so appearing the action will be proceeded with and heard and determined in your absence. And you will bring with you or send by your proctor (*describe document required*) which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

By order of court,
Signed ———,
The ——— day of ———, 18 —. Secretary.

NOTE 1.—Should you apprehend that your witnesses will not attend of their own accord, you can have a summons from this court to compel the attendance of any witness, and the production of any document you have a right to call on any witness to produce, by applying to the court at any reasonable time before trial, and depositing the necessary subsistence money.

NOTE 2.—If you admit the demand, you should pay the money into court, with the costs of the action, to avoid the summary execution of the decree which may be made against your person or property, or both, if necessary.

No. 17.—Form of Precept to Fiscal to serve Summons.

(See Section 55.)

(*Title.*)

To the Fiscal of the ——— Province.

Serve forthwith the summons in the above-named action, which, with duplicates, is herewith transmitted to you, upon each of the persons to whom it is directed, and leave with or tender to each such person a duplicate summons and one of the copies of (*or* concise statements presented with) the plaint, which accompany the summons. And certify to this court on or before the ——— day of ———, 18 —, in what manner you have executed this precept, returning the summons attached to your certificate as an exhibit.

By order of court,
Signed ———,
The ——— day of ———, 18 —. Secretary.

No. 18.—Form of Summons for Service out of the Colony.

(See Sections 69–71.)

(*Title.*)

To the above-named defendant (*or* defendants).

Whereas (*follow ordinary form of summons, substituting for the day of appearance* "within ——— days," *being the number of days directed by the court, or insert any other direction the court may have issued*).

No. 19.—Summons in an action of Summary Procedure on a Liquid Claim.

(See Section 703.)

(*Title.*)

To the above-named defendant (*or* defendants).

Whereas the above-named plaintiff has instituted an action against you in this court under chapter LIII of the Civil Procedure Code for ——— rupees principal and interest (*or* ——— rupees, balance of principal and interest) due to him as payee (*or* indorsee) of a bill of

exchange (*or as the case may be: state the instrument on which the claim is made*) of which a copy is hereto annexed: You are hereby summoned to obtain leave from the court within ——— days from the service hereof, inclusive of the day of such service, to appear and defend the action, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after expiration of such ——— days to obtain a decree for any sum not exceeding ——— rupees (*name the sum claimed*), together with interest thereon at the rate specified in the said (*instrument*) to the date of payment in full, and the sum of ——— rupees for costs.

Leave to appear may be obtained on an application to the court supported by affidavit showing that there is a defence to the action on the merits, or that it is reasonable that you should be allowed to appear in the action.

(*Here copy the instrument sued on, and where it is a negotiable instrument and carries endorsements, with the endorsements.*)

By order of court,

Signed ———,

The ——— day of ———, 18 —. Secretary.

No. 20.—Forms of Concise Statements to be presented with Plaint.

(See Section 49)

The claim of the plaintiff (*and where the plaintiff sues in a representative capacity, add:* suing as administrator of the estate and effects of *A. B.*, deceased, *or as the case may be*) is ——— rupees for money lent (and interest, *or as the case may be, showing the nature of the claim*). (*Where defendant is sued in a representative capacity, state it, as*) The defendant, *C. D.*, is sued as the administrator of the estate and effects of *X. Y.*, deceased (and the defendants *E. F.* and *G. H.*, as his co-heirs-at law, *or as the case may be*).

(*Add where the claim is for a debt or liquidated demand*) And ——— rupees for costs; and if the amount claimed be paid to the plaintiff or his proctor within ——— days (*or if the summons is to be served out of the jurisdiction, insert the time for appearance limited in the order*) from the service hereof, further proceedings will be stayed.

Add, when necessary—

And for an injunction.
And for mesne profits.
And for an account of rent or arrears of rent.
And for breach of covenant for repairs (*or as the case may be*).

The following may be used in appropriate cases :—

Partnership.

The plaintiff's claim is to have an account taken of the partnership dealings between the plaintiff and defendant (under articles of partnership dated the ——— day of ———), and to have the affairs of the partnership wound up.

By Mortgagee.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest, and costs on a mortgage dated the ——— day of ———, made between (*parties*), *or* by deposit of title-deeds, and that the property mortgaged may be realized by sale.

By Mortgagor.

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated ———, and made between (*parties*), and to redeem the property comprised therein.

Raising Portions.

The plaintiff's claim is that the sum of ——— rupees, which by a deed of settlement dated ———, was provided for the portions of the younger children of ———, may be raised.

Execution of Trust.

The plaintiff's claim is to have the trusts of an indenture dated ———, and made between (*parties*), carried into execution.

Cancellation or Rectification.

The plaintiff's claim is to have a deed dated ———, and made between (*parties*), set aside or rectified.

Specific Performance.

The plaintiff's claim is for specific performance of an agreement dated the ——— day of ———. for the sale by the plaintiff to the defendant of certain hereditaments at ———.

No. 21.—Form of Decree *Nisi* Dismissing the Action in default of Appearance of Plaintiff.

(See Section 84.)

(*Title.*)

This action coming on for disposal before (*name and office of judge*) on the ——— day of ———, 18 —, being the day appointed in the summons for the defendant to appear and answer (*or* for the filing of the answer *or* replication, *or* being the day fixed for the hearing of the action, *as the case may be*), and the defendant appearing (in person *or* by proctor *or* counsel), and the plaintiff not appearing either in person or by proctor or counsel, it is decreed that the action be dismissed, and that the plaintiff do pay to the defendant his costs thereof, unless sufficient cause be shown to the contrary within fourteen days from the date hereof.

Signed ———,
District Judge.

The ——— day of ———, 18 —.

No. 22.—Form of Decree *Nisi* in default of Appearance of Defendant.

(See Section 85.)

(*Title.*)

This action coming on for disposal before (*name and office of judge*) on the ——— day of ———, 18 —, being the day appointed in the summons for the defendant to appear and answer (*or* being the day appointed for the defendant to file answer, *or* for the filing of the replication, *or* being the day fixed for the hearing of the action, *as the case may be*), and the plaintiff appearing (in person, &c., *as above*), and the defendant not appearing either in person or by proctor or counsel, although he was duly served with the summons, together with a copy of the plaint (*or, if the case is so*, a concise statement of the nature of the claim as provided by section 49 of the Civil Procedure Code), as by the affidavit of ———, filed the ——— day of ———, appears . It is decreed that the defendant do pay to the plaintiff the sum of ——— rupees and his costs of this action, unless sufficient cause be shown to the contrary on the ——— day of ———, 18 —.

Signed ———,
District Judge

The ——— day of ———, 18 —.

No. 23.—Form of Decree discharging Decree *Nisi* and directing Action to proceed (*to be endorsed on Decree* Nisi).

(See Sections 84–86.)

The above decree *nisi* coming on for final order before (*name and office of judge*) on this ——— day of ———, 18 —, being the day appointed in the said decree for showing cause against it, and plaintiff and defendant appearing (in person, *or as the case is*), and the affidavit of ——— dated ——— having been read, and the evidence of ——— having been taken and both parties heard :

It is ordered that the above decree be discharged, and that the action do proceed in due course, and that the ——— day of ———, 18 —, be fixed for the defendant to appear and answer the plaintiff's claim (*or as the case may be*). And it is further ordered (*state order as to costs of the application*).

Signed ———,
District Judge.

The ——— day of ———, 18 —.

No. 24.—Form of Decree Absolute for default of showing cause, or sufficient cause not being shown (*to be endorsed on Decree* Nisi).

(See Sections 84–86.)

The above decree *nisi* coming on for final order before (*name and office of judge*) on this ——— day of ———, 18 —, being the day appointed in the said decree for showing cause against it (*when defendant is in default—say* of which decree defendant received notice, as appears by the affidavit of ——— dated ———), and plaintiff and defendant appearing by counsel (*or as the case is, and if defendant does not appear when plaintiff is applying to discharge rule—say* defendant not appearing although due notice of the day for showing cause against the said decree was served upon him, as appears by the affidavit of ——— dated ———). And no cause being shown to the contrary (*or where no sufficient cause is shown*, the affidavit of ——— dated ——— having been read and the evidence of ——— having been taken, and both parties (*or* counsel on both sides, *or as the case may be*) having been heard, and no sufficient cause to the contrary appearing to this court :)

The above decree is made absolute.

Signed ———,
District Judge.

The ——— day of ———, 18 —.

No. 25.—Form of Interrogatories.

(See Sections 94 *et seq.*)

(*Title.*)

Interrogatories on behalf of the above-named plaintiff (*or as the case may be*) for the examination of the above-named defendant (*or as the case may be*):

1.—Did not, &c.
2.—Has not, &c.

The defendant *A. B.* is required to answer the interrogatories numbered ———.

The defendant *C. D.* is required to answer the interrogatories numbered ———.

Signed ———,
Proctor for Plaintiff.

No. 26.—Form of Answer to Interrogatories.

(See Section 99.)

(*Title.*)

The answer of the above-named defendant, *A. B.* (*or as the case may be*), to the interrogatories for his examination delivered on behalf of the above-named plaintiff (*or as the case may be*) :

In answer to the said interrogatories, I, the above-named defendant, *A. B.*, make oath (*or* affirmation) and say as follows :

1, 2, 3, 4.—(*Set forth answers to the interrogatories in paragraphs numbered consecutively.*)

5.—I object to answer the interrogatories numbered ———, on the ground that (*state ground of objection, verifying the same*).

Sworn (*or* affirmed) this ——— day of ———, 18 —, before me, &c.

No. 27.—Form of Notice to admit Genuineness of Documents.

(See Section 101.)

(*Title.*)

To (*set out names and places of residence of persons to be served with the notice*).

Take notice that the above-named plaintiff (*or as the case may be*) in this action proposes to adduce in evidence the several documents hereunder specified, and that the same may be inspected by the defendant (*as the case may be*) or his proctor at ———, on ———, between the hours of ——— and ———; and the defendant (*or as before*) is hereby required, within forty-eight hours from the hour last mentioned, to admit that such of the said documents as are specified to be originals were respectively written, signed, or executed as they purport respectively to have been, and that such as are specified as copies are true copies.

By order of court,

The ——— day of ———, 18 —. *Signed* ———,
Secretary (*or as the case may be*).

(*Here annex Schedule of Documents.*)

No. 28.—Form of Admission of Genuineness of Documents.

(See Section 101.)

(*Title.*)

To (*names, &c., of persons to be served*).

I (*or* we, *if the case is so*), saving all just exceptions as to the admissibility thereof in evidence, hereby admit that the documents mentioned in the notice of the ——— day of ———, 18 —, issued from this court at the instance of (*as the case may be, or, if any are not admitted*, that such of the documents mentioned, (*as above*) as are included in the schedule hereto annexed) were respectively written (*&c., as in notice*).

Signed ———,
By Party (or Proctor).

The ——— day of ———, 18 —.

No. 29.—Form of Notice to produce Documents for Inspection.

(See Section 104.)

(*Title.*)

To (*set out name and place of residence of party to be served*).

Take notice that the above-named plaintiff (*or as the case may be*) requires you to produce for inspection by him or his proctor the following documents referred to in (*state as the case is*) ; that is to say (*describe documents*), and to permit such party or proctor to take copies thereof.

By order of court,

The ——— day of ———, 18 —. *Signed* ———,
Secretary (*or as the case is*).

No. 30.—Forms of Appointment, and of Refusal, to inspect Documents.

(See Sections 104, 105.)

(*Title.*)

To (*name, &c., of person to be served*).

Take notice that the plaintiff (*or as the case may be*) can inspect the documents mentioned in the notice of the ——— day of ———, 18 —, issued from this court at his instance, except (*mention any document of which inspection is refused*), at my office (*or as the case may be*) on the ——— day of ———, 18 —, at ——— o'clock of the ——— noon. The defendant (*or as the case may be*) objects to produce the documents hereinbefore excepted, on the ground (*state the ground*).

Signed ———,

The ——— day of ———, 18 —. By Party (or Proctor).

No. 31.

(*Title.*)

To (*as in last form*).

Take notice that the defendant (*or as may be*) objects to give the plaintiff (*or as may be*) inspection of the documents mentioned in the notice (*as in last form*) on the ground (*state the ground*).

(*Signed as before.*)

The ——— day of ———, 18 —.

No. 32.—Form of Summons to Witness.

(See Sections 121–126.)

(*Title.*)

To (*name, description, and address of witness*).

You are hereby summoned to appear in this court in person on the ——— day of ———, at ——— o'clock in the forenoon, to give evidence on behalf of the plaintiff (*or* defendant) in the above-mentioned action, and to produce (*here describe with convenient certainty*

any document the production of which is required; if the summons is only to give evidence, or only to produce a document, it must be so expressed). And you are not to depart thence until you have been examined (*or* have produced the document) and the court has risen, or unless you have obtained the leave of the court.

By order of court,

Signed ———,

The ——— day of ———, 18—. Secretary.

NOTE 1.—If you are summoned only to produce a document and not to give evidence you shall be deemed to have complied with the summons if you cause the document to be produced in this court on the day and at the hour within-named.

NOTE 2.—If you are detained beyond the day within-named, a sum of ——— rupees will be tendered to you for each day's attendance beyond the day specified.

(NOTE 3.—No money having been paid to the court to cover the costs of your attendance, and no security having been given for the payment thereof, your attendance on this summons is not obligatory.)

(NOTE 4.—Money has been paid into court (*or* security has been given, *as the case may be*) for the costs of your attendance.)

No. 33.—FORMS OF PLAINTS.

*Plaints in Ordinary Cases.**

(1) For Money Lent.

1.—That on the ——— day of ———, 18—, at ———, plaintiff lent the defendant ——— rupees, repayable on demand (*or* on the ——— day of ———).

2.—That the defendant has not paid the same, except ——— rupees paid on the ——— day of ———, 18—.

(*If the plaintiff claims exemption from any law of limitation, say* :—

3.—The plaintiff was a minor (*or* insane) from the ——— day of ——— till the ——— day of ———.)

4.—The plaintiff prays judgment for ——— rupees, with interest at ——— per cent. from the ——— day of ———, 18—.

---

(2) For Money Received to Plaintiff's use.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the defendant received ——— rupees (*or* a cheque on the ——— Bank for ——— rupees) from one *E. F.* for the use of the plaintiff.

2.—That the defendant has not paid (*or* delivered) the same accordingly.

3.—The plaintiff prays judgment for ——— rupees, with interest at ——— per cent. from the ——— day of ———, 18—.

---

* In every plaint a statement must be inserted of the facts by reason of which the court has jurisdiction to try and determine the claim: where the claim is prescribed on the face of it, the ground on which exemption from the law of prescription is claimed must be shown: if a set-off is allowed, or any portion of the claim abandoned, it must be so stated. (See sections 40–45.)

(3) For Price of Goods Sold by a Factor.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, he and *E. F.*, since deceased, delivered to the defendant (*one thousand barrels of flour, five hundred bushels of rice, or as the case may be*) for sale upon commission.

2.—That on the ——— day of ———, 18 — (*or*, on some day unknown to the plaintiff, before the ——— day of ———, 18 —), the defendant sold the said merchandise for ——— rupees.

3.—That the commission and expenses of the defendant thereon amount to ——— rupees.

4.—That on the ——— day of ———, 18 —, the plaintiff demanded from the defendant the proceeds of the said merchandise.

5.—That he has not paid the same.

(Demand of judgment.)

---

(4) For Money Received by Defendant through the Plaintiff's Mistake of Fact.

(*Title.*)

1.—That on the ——— day ———, 18 —, at ———, the plaintiff agreed to buy and the defendant agreed to sell ——— bars of silver at ——— cents per ounce of fine silver.

2.—That the plaintiff procured the said bars to be assayed by one *E. F.*, who was paid by the defendant for such assay, and that the said *E. F* declared each of the said bars to contain 1,500 ounces of fine silver, and that the plaintiff accordingly paid the defendant ——— rupees therefor.

3.—That each of the said bars did contain only 1,200 ounces of fine silver.

4.—That the defendant has not repaid the sum so overpaid.

(Demand of judgment.)

---

(5) For Money Paid to a Third Party at the Defendant's Request.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, at the request (*or* by the authority) of the defendant, the plaintiff paid to one *E. F.* ——— rupees.

2.—That, in consideration thereof, the defendant promised (*or* became bound) to pay the same to the plaintiff on demand (*or as the case may be*).

3.—That (on the ——— day of ———, 18 —. the plaintiff demanded payment of the same from the defendant, but) he has not paid the same.

(Demand of judgment.)

---

(6) For Goods Sold at a Fixed Price and Delivered.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, *E. F.*, of ———, deceased, sold and delivered to the defendant (*one hundred barrels of flour, or*, the goods mentioned in the schedule hereto annexed, *or*, sundry goods).

2.—That the defendant promised to pay ——— rupees for the said goods on delivery (*or*, on the ——— day of ———, *some day before the plaint was filed*).

3.—That he has not paid the same.

4.—That the said *E. F.* in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5.—That on the ——— day of ———, 18 —, the said *E. F.* died.

6.—That on the ——— day of ———, probate of the said will was granted to the plaintiff by the District Court of ———.

7.—The plaintiff as executor as aforesaid (demand of judgment).

(NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.)

---

(7) For Goods Sold at a Reasonable Price and Delivered.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, plaintiff sold and delivered to the defendant (*sundry articles of house furniture*), but no express agreement was made as to the price.

2.—That the same were reasonably worth ——— rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(NOTE.—The law implies a promise to pay so much as the goods are reasonably worth.)

---

(8) For Goods delivered to a Third Party at Defendant's Request at a Fixed Price.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, plaintiff sold to the defendant (*one hundred barrels of flour*), and, at the request of the defendant, delivered the same to one *E. F.*

2.—That the defendant promised to pay to the plaintiff ——— rupees therefor.

3.—That he has not paid the same.

(Demand of judgment.)

---

(9) For Necessaries furnished to the Family of Defendant's Testator, without his express request, at a Reasonable Price.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, plaintiff furnished to (*Mary Jones*), the wife of (*James Jones*), deceased, at her request, sundry articles of (*food and clothing*), but no express agreement was made as to the price

2.—That the same were necessary for her.

3.—That the same were reasonably worth ——— rupees.

4. That the said (*James Jones*) refused to pay the same.

5.—That the defendant is the executor of the last will of the said (*James Jones*).

(Demand of judgment.)

(10) For Goods Sold at a Fixed Price.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the plaintiff sold to *E. F.* of ———, deceased (*all the crops then growing on his farm in* ———).

2.—That the said *E. F.* promised to pay the plaintiff ——— rupees for the same.

3.—That he did not pay the same.

4.—That the defendant is administrator of the estate of the said *E. F.*

(Demand of judgment.)

---

(11) For Goods Sold at a Reasonable Price.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, *E. F.*, of ———, sold to the defendant (*all the fruit growing in his orchard in* ———), but no express agreement was made as to the price.

2.—That the same was reasonably worth ——— rupees.

3.—That the defendant has not paid the same.

4.—That on the ——— day of ———, the District Court of ——— duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff manager of his estate.

5.—The plaintiff as manager as aforesaid (demand of judgment).

---

(12) For Goods made at Defendant's Request, and not Accepted.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, *E. F.*, of ———, agreed with the plaintiff that the plaintiff should make for him (*six tables and fifty chairs*), and that the said *E. F.* should pay for the same upon delivery thereof ——— rupees.

2.—That the plaintiff made the said goods, and on the ——— day of ———, 18—, offered to deliver the same to the said *E. F.*, and has ever since been ready and willing so to do.

3.—That the said *E. F.* has not accepted the said goods or paid for the same.

4.—That on the ——— day of ———, 18—, the District Court of ——— duly adjudged the said *E. F.* to be of unsound mind and incapable of managing his affairs, and appointed the defendant manager of his estate.

5.—The plaintiff prays judgment for ——— rupees, with interest from the ——— day of ———, at the rate of ——— per cent. per annum, to be paid out of the estate of the said *E. F* in the hands of the defendant.

---

(13) For Deficiency upon a Re-sale (Goods Sold at Auction).

(*Title.*)

1—That on the ——— day of ———, 18—, at ———, plaintiff put up at auction sundry (*articles of merchandise*), subject to the condition that all goods not paid for and removed by the purchaser thereof within (*ten days*) after the sale should be re-sold by auction on his account, of which condition the defendant had notice.

2.—That the defendant purchased (*one crate of crockery*) at the said auction at the price of ——— rupees.

3.—That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for (*ten days*) thereafter, of which the defendant had notice.

4.—That the defendant did not take away the said goods purchased by him, nor pay therefor, within (*ten days*) after the sale, nor afterwards

5.—That on the ——— day of ———, 18—, at ———, the plaintiff re-sold the said (*crate of crockery*), on account of the defendant, by public auction for ——— rupees.

6.—That the expenses attendant upon such re-sale amounted to ——— rupees.

7.—That the defendant has not paid the deficiency thus arising, amounting to ——— rupees.

(Demand of judgment.)

---

(14) For the Purchase-money of Lands Conveyed.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the plaintiff sold (and conveyed) to the defendant (the house and compound No. ——, in the city of ———, *or*, a farm known as———, in ———, *or*, a piece of land lying, &c.).

2.—That the defendant promised to pay the plaintiff ——— rupees for the said (house and compound, *or* farm, *or* land).

3.—That he has not paid the same.

(NOTE.—Where there has been no actual conveyance, say, in section 1. "sold to the defendant the house, &c., and placed him in possession of the same.")

(Demand of judgment.)

---

(15) For the Purchase-money of Immovable Property contracted to be Sold, but not Conveyed.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the plaintiff and defendant entered into a notarial agreement, a copy of which is hereto annexed, by which they mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff (the house No. ——, in the town of ———, *or*, ——— acres of land in ———, bounded ———) for ——— rupees.

2.—That on the ——— day of ———, 18—, at ———, the plaintiff tendered (*or*, was ready and willing, and offered to execute) a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.

3.—That the defendant has not paid the said sum.

(Demand of judgment.)

(16) For Services at a Fixed Price.

(*Title.*)

1.—That on the ——— day of ———, 18 —. at ———, the defendant (*hired plaintiff as a clerk, at the salary of* ——— *rupees per year*).

2.—That from the (said day) until the ——— day of ———, 18 —, the plaintiff served the defendant as his (*clerk*).

3.—That the defendant has not paid the said salary.

(Demand of judgment.)

---

(17) For Services at a Reasonable Price.

(*Title.*)

1.—That between the ——— day of ———, 18 —, and the ——— day of ———, 18 —, at ———, plaintiff (*executed sundry drawings, designs, and diagrams*) for the defendant at his request ; but no express agreement was made as to the sum to be paid for such services.

2.—That the said services were reasonably worth ——— rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(18) For Services and Materials at a Fixed Price.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, plaintiff (*furnished the paper for and printed one thousand copies of a book called* ———) for the defendant at his request (and delivered the same to him).

2.—That the defendant promised to pay ——— rupees therefor.

3.—That he has not paid the same

(Demand of judgment.)

---

(19) For Services and Materials at a Reasonable Price.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, plaintiff built a house (known as No. ———, in ———), and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials

2.—That the said work and materials were reasonably worth ——— rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(20) For Rent Reserved in a Lease.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed (*or state the substance of the contract*).

2.—That the defendant has not paid the rent of the (*month*) ending on the ——— day of ———, 18 —. amounting to ——— rupees.

(Demand of judgment.)

Another Form.

1.—That the plaintiff let to the defendant a house, No. ——, for *seven* years, to hold from the —— —— day of ———, 18 —, at ——— rupees a year, payable quarterly.

2.—That of such rent ——— quarters are due and unpaid.

(Demand of judgment.)

---

(21) For Use and Occupation at a Fixed Rent.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant hired from the plaintiff (the house No. ——, ——— street), at the rent of ——— rupees, payable ——— on the first day of ———.

2.—That the defendant occupied the said premises from the ——— day of ———, 18 —, to the ——— day of ———, 18 —.

3.—That the defendant has not paid ——— rupees, being the part of the said rent due on the first day of ———, 18 —.

(Demand of judgment.)

---

(22) For Use and Occupation at a Reasonable Rent.

(*Title.*)

1.—That the defendant occupied (the house No ——, ——— street), by permission of the said *X. Y.*, deceased, from the ——— day of ———, 18 —, until the ——— day of ———, 18 —, and no agreement was made as to payment for the use of the said premises.

2.—That the use of the said premises for the said period was reasonably worth ——— rupees.

3.—That the defendant has not paid the same.

4.—That the said *X. Y.* in his lifetime made his will, whereby he appointed the plaintiff executor thereof.

5.—That on the ——— day of ———, 18 —, the said *X. Y.* died.

6.—That on the ——— day of ———, probate of the said will was granted to the plaintiff by the District Court of ———

7.—The plaintiff as such executor as aforesaid prays judgment for ——— rupees.

---

(23) For Board and Lodging.

(*Title.*)

1.—That from the ——— day of ———, 18 —, until the ——— day of ———, 18 —, the defendant occupied certain rooms in the house (No. ——, ——— street), by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance, and other necessaries.

2.—That, in consideration thereof, the defendant promised to pay (*or* that no agreement was made as to payment for such meat, drink, attendance, or necessaries, but the same were reasonably worth) the sum of ——— rupees.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(24) For Freight of Goods.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, plaintiff transported in (his barge, *or otherwise*) (*one thousand barrels of flour*, *or* sundry goods), from ——— to ———, at the request of the defendant.

2.—That the defendant promised to pay the plaintiff the sum of (*one rupee per barrel*) as freight thereon (*or*, that no agreement was made as to payment for such transportation, but such transportation was reasonably worth ——— rupees).

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(25) For Passage-money.

(*Title.*)

1.—That on the ——— day of ———, 18—, plaintiff conveyed the defendant (in his ship, called the ———), from ——— to ———, at his request.

2.—That the defendant promised to pay the plaintiff ——— rupees therefor (*or*, that no agreement was made as to the said passage, but the said passage was reasonably worth ——— rupees).

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(26) On an Award.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the plaintiff and defendant having a controversy between them concerning (*a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay*), agreed to submit the same to the award of *E. F.* and *G. H.*, as arbitrators (*or*, entered into an agreement, a copy of which is hereto annexed).

2.—That on the ——— day of ———, 18—, at ———, the said arbitrators awarded that the defendant should (pay the plaintiff ——— rupees).

3.—That the defendant has not paid the same.

(Demand of judgment.)

(NOTE.—This will apply where the agreement to refer is not filed in court.)

---

(27) On a Foreign Judgment.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, in the State (*or* Kingdom) of ———, the ——— Court of that State (*or* Kingdom), in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff ——— rupees, with interest from the said date.

2.—That the defendant has not paid the same.

(Demand of judgment.)

Plaints upon Instruments for the Payment of Money only.

(28) On an Annuity Bond.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant by his bond became bound to the plaintiff in the sum of ——— rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff ——— rupees half-yearly on the ——— day of ———, and the ——— day of ———, in every year during the life of the plaintiff, the said bond should be void.

2.—That afterwards, on the ——— day of ———, 18 —, the sum of ——— rupees for ——— of the said half-yearly payments of the said annuity became due to the plaintiff, and is still unpaid.

(Demand of judgment.)

---

(29) Payee against Maker.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, by his promissory note, now overdue, promised to pay to the plaintiff ——— rupees ——— (days) after date.

2.—That he has not paid the same (except ——— rupees, paid on the ——— day of ———, 18 —).

(Demand of judgment.)

(NOTE.—*Where the note is payable after notice, for paragraphs 1 and 2 substitute*—)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, by his promissory note, promised to pay to the plaintiff ——— rupees ——— months after notice.

2.—That notice was afterwards given on the ——— day of ——— by the plaintiff to the defendant to pay the same ——— months after the said notice.

3.—That the said time for payment has elapsed, but the defendant has not paid the same.

(*Where the note is payable at a particular place, say*—)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, by his promissory note, now overdue, promised to pay to the plaintiff (*at Messrs. A. & Co.'s, Colombo*) ——— rupees ——— months after date.

2.—That the said note was duly presented for payment (*at Messrs. A. & Co.'s*) aforesaid, but has not been paid.

---

(30) First Indorsee against Maker.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, by his promissory note, now overdue, promised to pay to the order of *E. F.* (*or* to *E. F.* or order) rupees ——— (——— days after date).

2.—That the said *E. F.* indorsed the same to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

(31) Subsequent Indorsee against Maker.

(*Title.*)

1.—(*As in the last preceding form.*)

2.—(That the same was, by the indorsement of the said *E. F.* and of *G. H.* and *I. J.* (*or* and others), transferred to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(32) First Indorsee against first Indorser.

(*Title.*)

1.—That *E. F.*, on the ——— day of ———, 18 —, at ———, by his promissory note, now overdue, promised to pay to the defendant or order ——— rupees ——— months after date.

2.—That the defendant indorsed the same to the plaintiff.

3.—That on the ——— day of ———, 18 —, the same was duly presented for payment, but was not paid (*or state facts excusing want of presentment*).

4.—That the defendant had notice thereof.

5.—That he has not paid the same.

(Demand of judgment.)

---

(33) Subsequent Indorsee against first Indorser, the Indorsement being Special.

(*Title.*)

1.—That the defendant indorsed to one *E. F.* a promissory note, now overdue, made (*or* purporting to have been made) by one *G. H.*, on the ——— day of ———, 18 —, at ———, to the order of the defendant, for the sum of ——— rupees (payable ——— days after date).

2.—That the same was, by the indorsement of the said *E. F.* (and others), transferred to the plaintiff (*or*, that the said ——— indorsed the same to the plaintiff).

3, 4, and 5.—(*Same as 3, 4, and 5 of the last preceding form.*)

(Demand of judgment.)

---

(34) Subsequent Indorsee against his Immediate Indorser.

(*Title.*)

1.—That the defendant indorsed to the plaintiff a promissory note, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, to the order of one *G. H.*, for the sum of ——— rupees (payable ——— days after date), and indorsed by the said *G. H.* to the defendant.

2, 3, and 4.—(*Same as in 3, 4, and 5 in form No. 33.*)

(Demand of judgment.)

(35) Subsequent Indorsee against Intermediate Indorser.

(*Title.*)

1.—That a promissory note, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, to the order of one *G. H.*, for the sum of ——— rupees (payable ——— days after date), and indorsed by the said *G. H.* to the defendant, was by the indorsement of the defendant (and others) transferred to the plaintiff.

2, 3, and 4.—(*As in No. 33.*)

(Demand of judgment.)

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(36) Subsequent Indorsee against Maker and First and Second Indorser.

1.—That on the ——— day of ———, 18 —, at ———, the defendant, *C. D.* by his promissory note, now overdue, promised to pay to the order of the defendant, *E. F.*, ——— rupees (——— months after date).

2.—That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.

3.—That on the ——— day of ———, 18 —, the same was presented (*or state facts excusing want of presentment*) to the said *C. D.* for payment, but was not paid.

4.—That the said *E. F.* and *G. H.* had notice thereof.

5.—That they have not paid the same.

(Demand of judgment.)

---

(37) Drawer against Acceptor.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ——, by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him ——— rupees (——— days after date, *or* sight, thereof).

2.—That the defendant accepted the said bill (*If the bill is payable at a certain time after sight, the date of acceptance should be stated; otherwise it is not necessary.*)

3.—That he has not paid the same.

4.—That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

(Demand of judgment.)

(NOTE.—*Where the bill is payable to a third party, for paragraphs 1, 2, 3, say*—)

1.—That on, *&c.*, at *&c.*, by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to *E. F.* or order ——— rupees ——— months after date.

2.—That the plaintiff delivered the said bill to the said *E. F.* on ———.

3.—That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

(38) Payee against Acceptor.

(*Title.*)

1.—That on the ——— day of ———, 18 —, the defendant accepted a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, requiring the defendant to pay to the plaintiff ——— rupees ——— after sight thereof.

2.—That he has not paid the same.

(Demand of judgment.)

---

(39) First Indorsee against Acceptor.

(*Title.*)

1.—That on the ——— day of ———, 18 —, the defendant accepted a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, requiring the defendant to pay to the order of one *G. H.* ——— rupees ——— after sight thereof.

2.—That the said *G. H.* indorsed the same to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(40) Subsequent Indorsee against Acceptor.

(*Title.*)

1.—(*As in the last preceding form to the end of paragraph 1.*)

2.—That by the indorsement of the said *G. H.* (and others) the same was transferred to the plaintiff.

3.—That the defendant has not paid the same.

(Demand of judgment.)

---

(41) Payee against Drawer for Non-acceptance.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, by his bill of exchange, directed to *E. F.*, required the said *E. F.* to pay to the plaintiff ——— rupees (——— days after sight).

2.—That on the ——— day of ———, 18 —, the same was duly presented to the said *E. F.* for acceptance, and was dishonoured.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(Demand of judgment.)

---

(42) First Indorsee against First Indorser.

(*Title.*)

1.—That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, requiring one *G. H.* to pay to the order of the defendant ——— rupees (———

days) after sight (*or* after date, *or* at sight) thereof (and accepted by the said *G. H.* on the ——— day of ———, 18 —).

2.—That on the ——— day of ———, 18 —, the same was presented to the said *G. H.* for payment, and was dishonoured.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(Demand of judgment.)

---

(43) Subsequent Indorsee against First Indorser, the Indorsement being Special.

(*Title.*)

1.—That the defendant indorsed to one *E. F.* a bill of exchange, now overdue, made (*or* purporting to have been made) by one *G. H.*, on the —— —— day of —— ——, 18 —, at ———, requiring one *I. J.* to pay to the order of the defendant ——— rupees ——— days after sight thereof (*or otherwise*), and accepted by the said *I. J.* on the ——— day of ———, 18 —. (*This paragraph may be omitted if not according to the fact.*)

2.—That the same was, by the indorsement of the said *E. F.* (and others), transferred to the plaintiff.

3.—That on the ——— day of ———, 18 —, the same was presented to the said *I. J.* for payment, and was dishonoured.

4.—That the defendant had due notice thereof.

5.—That he has not paid the same.

(Demand of judgment.)

---

(44) Subsequent Indorsee against his Immediate Indorser.

(*Title.*)

1.—That the defendant indorsed to plaintiff a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, requiring one *G. H.* to pay to the order of *I. J.* ——— rupees ——— days after sight thereof (*or otherwise*), (accepted by the said *G. H.*) and indorsed by the said *I. J.* to the defendant.

2.—That on the ——— day of ———, 18 —, the same was presented to the said *G. H.* for payment, and was dishonoured.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(Demand of judgment.)

---

(45) Subsequent Indorsee against Intermediate Indorser.

(*Title.*)

1.—That a bill of exchange, now overdue, made (*or* purporting to have been made) by one *E. F.*, on the ——— day of ———, 18 —, at ———, requiring one *G. H.* to pay to the order of one *I. J.* ——— rupees ——— days after sight thereof (*or otherwise*), accepted by the said *G. H.* and indorsed by the said *I. J.* to the defendant, was, by the indorsement of the defendant (and others), transferred to the plaintiff.

2.—That on the ——— day of ———, 18 —, the same was presented to the said *G. H.* for payment, and was dishonoured.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(Demand of judgment.)

(46) Indorsee against Drawer, Acceptor, and Indorser.

1.—That on the ——— day of ———, 18 —, at ———, the defendant, *C. D.*, by his bill of exchange, now overdue, directed to the defendant *E. F.*, required the said *E. F.* to pay to the order of the defendant *G. H.* ——— rupees (——— days after sight thereof).

2.—That on the ——— day of ———, 18 —, the said *E. F.* accepted the same.

3.—That the said *G. H.* indorsed the same to the plaintiff.

4.—That on the ——— day of ———, 18 —, the same was presented to the said *E. F.* for payment, and was dishonoured.

5.—That the other defendants had due notice thereof.

6.—That they have not paid the same.

(Demand of judgment.)

---

(47) Payee against Drawer for Non-acceptance of a Foreign Bill.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant by his bill of exchange, drawn in (*Colombo*), required one *E. F.* to pay to the plaintiff in (*London*) ——— pounds sterling (*sixty days*) after sight thereof.

2.—That on the ——— day of ———, 18 —, the same was presented to the said *E. F.* for acceptance, and was dishonoured, and was thereupon duly protested.

3.—That the defendant had due notice thereof.

4.—That he has not paid the same.

(5.—That the value of ——— pounds sterling, at the time of the service of notice of protest on the defendant, was ——— rupees and ——— cents.)

Wherefor the plaintiff demands judgment against the defendant for ——— rupees, with (*ten per centum*) compensation and interest from the ——— day of ———, 18 —.

---

(48) Payee against Acceptor.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, one *E. F.*, by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff ——— rupees after date (*or* ——— days after sight) thereof.

2.—That on the ——— day of ———, 18 —, the defendant accepted the said bill.

3.—That he has not paid the same.

(Demand of judgment.)

---

(49) On a Marine (open) Policy, on Vessel lost by Perils of the Sea, &c.

(*Title.*)

1.—The plaintiff was the owner of (*or* had an interest in) the ship ——— at the time of her loss, as hereinafter mentioned.

2.—That on the ——— day of ———, 18 —, at ———, the defendants, in consideration of ——— rupees to them paid (*or* which the plaintiff then promised to pay), executed to him a policy of

insurance upon the said ship, a copy of which is hereto annexed (*or*, whereby they promised to pay to the plaintiff, within ——— days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from ——— to ———, whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding ——— rupees).

3.—That the said ship, while proceeding on the voyage mentioned in the said policy, was on the ——— day of ———, 18—, totally lost by the perils of the sea (*or otherwise*).

4.—That the plaintiff's loss thereby was ——— rupees.

5.—That on the ——— day of ———, 18—, he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6.—That the defendants have not paid the said loss.

(Demand of judgment.)

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(50) On Cargo lost by Fire (valued Policy).

(*Title.*)

1.—That plaintiff was the owner of (*or* had an interest in) (*one hundred bales of cotton*) on board the ship ——— at the time of her loss as hereinafter mentioned.

2.—That on the ——— day of ———, 18—, at ———, the defendants, in consideration of ——— rupees which the plaintiff then paid (*or* promised to pay), executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed (*or*, whereby they promised to pay to the plaintiff ——— rupees in case of the total loss, by fire or other causes mentioned, of the said goods, before their landing at ——— ; *or*, in case of partial loss, such damages as the plaintiff might sustain thereby, provided the same should not exceed ——— per centum of the whole value of the goods).

3.—That on the ——— day of ———, 18—, at ———, while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (*or as the case may be*).

4, 5, and 6.—(*As in paragraphs 4, 5, and 6 of the last preceding form.*)

(Demand of judgment.)

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(51) On Freight (valued Policy).

(*Title.*)

1.—That the plaintiff had an interest in the freight to be earned by the ship ——— on her voyage from ——— to ——— at the time of her loss as hereinafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.

2.—That on the ——— day of ———, 18—, at ———, the defendant, in consideration of ——— rupees to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereunto annexed (*or state its tenor as before*).

3.—That the said ship, while proceeding upon the voyage mentioned in the said policy, was, on the ——— day of ———, 18—, totally lost by (the perils of the sea).

4.—That the plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage, by reason of her loss as aforesaid.

5 and 6.—(*As in form No. 49.*)

(Demand of judgment.)

(52) For a Loss by General Average.

(*Title.*)

1.—That plaintiff was the owner of (*or* had an interest in) (*one hundred bales of cotton*) shipped on board a vessel called the *Y. Z.*, ——— to ———, at the time of the loss hereafter mentioned.

2.—That on the ——— day of ———, 18 —, at ———, in consideration of ——— rupees (which the plaintiff then promised to pay), the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed (*or state its tenor as before*).

3.—That on the ——— day of ———, 18 —, while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.

4.—That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of ——— rupees.

5.—That on the ——— day of ———, 18 —, he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6.—The defendant has not paid the said loss.

(Demand of judgment.)

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(53) For a Particular Average Loss.

(*Title.*)

1 and 2.—(*As in the last preceding form.*)

3.—That on the ——— day of ———, 18 —, while on the high seas, the sea-water broke into the said ship, and damaged the said (*cotton*) to the amount of ——— rupees.

4 and 5.—(*As in paragraphs 5 and 6 of the last preceding form.*)

(Demand of judgment.)

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(54) On a Fire-insurance Policy.

(*Title.*)

1.—That plaintiff (was the owner of, *or*) had an interest in a (dwelling house, known as No. ——, ——— street, in the city of ———), at the time of its destruction (*or* injury) by fire as hereinafter mentioned.

2.—That on the ——— day of ———, 18 —, at ———, in consideration of ——— rupees (to them paid), the defendants executed to the plaintiff a policy of insurance on the said (premises), a copy of which is hereunto annexed (*or state its tenor*).

3.—That on the ——— day of ———, 18 —, the said (dwelling house) was totally destroyed (*or* greatly damaged) by fire.

4.—That the plaintiff's loss thereby was ——— rupees.

5.—That on the ——— day of ———, 18 —, he furnished the defendants with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.

6.—That the defendants have not paid the said loss.

(Demand of judgment.)

(55) Against Surety for Payment of Rent.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, one *E. F.* hired from the plaintiff, for the term of ——— years, the (house No. ——, ——— street, ———) at the annual rent of ——— rupees, payable (*monthly*).

2.—That (at the same time and place) the defendant agreed, in consideration of the letting of the said premises to the said *E. F.*, to guarantee the punctual payment of the said rent.

3.—That the rent aforesaid for the month of ———, 18 —, amounting to ——— rupees, has not been paid.

(*If by the terms of the agreement notice is required to be given to the surety, add*—)

4.—That on the ——— day of ———, 18 —, the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5.—That he has not paid the same.

(Demand of judgment.)

Plaints for Compensation for Breach of Contract.

(56) For Breach of Agreement to Convey Land.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant entered into a notarial agreement, of which a copy is hereto annexed, by which the defendant agreed with the plaintiff that, in consideration of a deposit of ——— rupees then paid, and of the further sum of (*ten thousand*) rupees payable as hereinafter mentioned, he would, on the ——— day of ———, 18 —, at ———, execute to the plaintiff a sufficient conveyance of (the house No. ——, ——— street, in the city of ———) free from all incumbrances; and the plaintiff agreed to pay (*ten thousand*) rupees for the same on delivery thereof.

2.—That on the ——— day of ———, 18 —, the plaintiff demanded the conveyance of the said property from the defendant and tendered ——— rupees to the defendant (*or*, that all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part).

3.—That the defendant has not executed any conveyance of the said property to the plaintiff (*or*, that there is a mortgage upon the said property, made by ——— to ———, for ——— rupees, registered in the office of ———, on the ——— day of ———, 18 —, and still unsatisfied, *or any other defect of title*).

4.—That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid, and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.

5.—The plaintiff prays judgment for ——— rupees compensation.

(57) For Breach of Agreement to Purchase Land.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant entered into a notarial agreement, of which a copy is hereto annexed, by which they mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff (*forty acres of land in the village of* ——— *for* ——— *rupees*).

2.—That on the ——— day of ———, 18 —, at ———, the plaintiff, being then the absolute owner of the said property (and the same being free from all incumbrances, as was made to appear to the defendant), tendered to the defendant a sufficient instrument of conveyance of the same (*or*, was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument), on the payment by the defendant of the said sum.

3.—That the defendant has not paid the same.

(Demand of judgment.)

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(58) Another Form.

(*Title.*)

1.—That by a notarial agreement dated the ——— day of ———, 18 —, of which a copy is hereto annexed, it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant, and the defendant should purchase from the plaintiff (*a house and land at the price of* ——— *rupees*), upon the terms and conditions following (that is to say):

(*a*) That the defendant should pay the plaintiff a deposit of ——— rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the ——— day of ———, 18 —, on which day the said purchase should be completed.

(*b*) That the plaintiff should deduce and make a good title to the said premises on or before the ——— day of ———, 18 —, and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.

2.—That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.

3.—That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

(Demand of judgment.)

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(59) For not delivering Goods Sold.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant mutually agreed that the defendant should deliver (*one hundred barrels of flour*) to the plaintiff (on the ——— day of ———, 18—), and the plaintiff should pay therefor ——— rupees on delivery.

2.—That on the (said) day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.

3.—That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

(Demand of judgment.)

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(60) For Breach of Contract to Employ.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as (*an accountant, or in the capacity of foreman, or as the case may be*), and that the defendant should employ the plaintiff as such, for the term of (*one year*), and pay him for his services ——— rupees (*monthly*).

2.—That on the ——— day of ———, 18 —, the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.

3.—That on the ——— day of ———, 18 —, the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

(Demand of judgment.)

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(61) For Breach of Contract to Employ, where the employment never took effect.

(*Title.*)

1.—(*As in last preceding form.*)

2.—That on the ——— day of ———, 18 —, at ———, the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.

3.—That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

(Demand of judgment.)

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(62) For Breach of Contract to Serve.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an (*annual*) compensation of ——— rupees, and that the defendant should serve the plaintiff as (*an artist*) for the term of (*one year*).

2.—That the plaintiff has always been ready and willing to perform his part of the said agreement (and on the ——— day of ———, 18 —, offered so to do).

3.—That the defendant (entered upon) the service of the plaintiff on the above-mentioned day, but afterwards, on the ——— day of ———, 18 —, he refused to serve the plaintiff as aforesaid.

(Demand of judgment.)

PROVINCIAL SECRETARIAT LIBRARY.

(63) Against a Builder for Defective Workmanship.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed (*or state the tenor of the contract*).

(2. - That the plaintiff duly performed all the conditions of the said agreement on his part.)

3.—That the defendant (*built the house referred to in the said agreement, in a bad and unworkmanlike manner*).

(Demand of judgment.)

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(64) By the Master against the Father or Guardian of an Apprentice.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant entered into an agreement, under his hand, a copy of which is hereto annexed (*or state the tenor of the contract*).

2.—That after the making of the said agreement the plaintiff received the said (*apprentice*) into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3.—That on the ——— day of ———, 18—, the said (*apprentice*) wilfully absented himself from the service of the plaintiff, and continues so to do.

(Demand of judgment.)

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(65) By the Apprentice against the Master.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant entered into an agreement with the plaintiff and his (*father*), *E. F.*, under their hands, a copy of which is hereto annexed.

2.—That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice, to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3.—That the defendant has not (instructed the plaintiff in the business of ———, *or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment*).

(Demand of judgment.)

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(66) On a Bond for the Fidelity of a Clerk.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, plaintiff employed one *E. F.* as a clerk.

2.—That on the ——— day of ———, 18 —, at ———, the defendant agreed with the plaintiff that if the said *E. F.* should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding ——— rupees.

(*Or*, 2.—That at the same time and place the defendant bound himself to the plaintiff by a writing under his hand, in the penal sum of ——— rupees, conditioned that if the said *E. F.* should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void, but not otherwise.)

(*Or*, 2.—That at the same time and place the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.)

3.—That between the ——— day of ———, 18 —, and the ——— day of ———, 18 —, the said *E. F.* received money and other property, amounting to the value of ——— rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

(Demand of judgment.)

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(67) By Tenant against Landlord, with special Damage.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, by an instrument in writing, let to the plaintiff (the house No. ——, ——— street), for the term of ——— years, contracting with the plaintiff that he, the plaintiff, and his legal representatives, should quietly enjoy possession thereof for the said term.

2.—That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3.—That on the ——— day of ———, during the said term, one *E. F.*, who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4.—That the plaintiff was thereby (*prevented from continuing the business of a tailor at the said place, was compelled to expend ——— rupees in moving, and lost the custom of G. H. and I. J. by such removal*).

(Demand of judgment.)

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(68) For Breach of Warranty of Movables.

(*Title.*)

1.—That on the ——— day of ———, 18 —, ———, the defendant, warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him ——— rupees therefor.

2.—That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which would otherwise have accrued to him while the engine was under repair.

(Demand of judgment.)

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(69) On an Agreement of Indemnity.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the plaintiff and defendant being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership and mutually agreed that the defendant should take and keep all the partnership-property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2.—That the plaintiff duly performed all the conditions of the said agreement on his part.

3.—That on the ——— day of ———, 18— (a judgment was recovered against the plaintiff and defendant by one *E. F.* in the District Court of ———, upon a debt due from the said firm to the said *E. F.*, and on the ——— day of ———, 18—) the plaintiff paid ——— rupees (in satisfaction of the same).

4.—That the defendant has not paid the same to plaintiff.

(Demand of judgment.)

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(70) By Shipowner against Freighter for not Loading.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

(*Or*, 1.—That on the ——— day of ———, at ———, the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship ———, at ———, on the ——— day of ———, 18—, *five hundred tons of merchandise*, which she should carry to ———, and there deliver, on payment of ——— freight; and that the defendant should have ——— days for loading, ——— days for discharge, and ——— days for demurrage if required, at ——— rupees per day.)

2.—That at the time fixed by the said agreement the plaintiff was ready and willing, and offered, to receive (the said merchandise, *or*, the merchandise mentioned in the said agreement) from the defendant.

3.—That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore the plaintiff demands judgment for ——— rupees for demurrage and ——— rupees additional for compensation.

Plaints for Compensation upon Wrongs.

(71) For Trespass on Land.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the defendant entered upon certain land of the plaintiff, known as ——— (and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same).

(Demand of judgment.)

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(72) For Trespass in entering a Dwelling House.

(*Title.*)

1.—That the defendant entered a dwelling house of the plaintiff called ———, and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling house, and removed, took, and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling house, and kept them so expelled for a long time.

2.—That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling house for himself and family.

(Demand of judgment.)

(73) For Trespass on Movables.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street (*or*, seized and took the plaintiff's goods, that is to say, iron, rice, and household furniture, *or as the case may be*, and carried away the same and disposed of them to his own use):

(*Or*, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.)

2.—That the plaintiff was thereby deprived of the use of the (cows and bullocks during that time, and incurred expenses in feeding them and in getting them restored to him ; and was also prevented from selling them at ———, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff) (*otherwise, state the injury according to the facts*).

(Demand of judgment.)

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(74) For the Conversion of Movable Property.

(*Title.*)

1.—That on the ——— day of ———, 18 —, plaintiff was in possession of certain goods described in the schedule hereto annexed (*or of one thousand barrels of flour*).

2.—That on that day, at ———, the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

(Demand of judgment.)

The Schedule.

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(75) Against a Warehouseman for Refusal to Deliver Goods.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant, in consideration of the payment to him of ——— rupees (*or* ——— rupees per barrel, per month, &c.), agreed to keep in his godown (*one hundred barrels of flour*), and to deliver the same to the plaintiff on payment of the said sum.

2.—That thereupon the plaintiff deposited with the defendant the said (*one hundred barrels of flour*).

3.—That on the ——— day of ———, 18 —, the plaintiff requested the defendant to deliver the said goods, and tendered him ——— rupees (*or* the full amount of storage due thereon), but the defendant refused to deliver the same.

4.—That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

(Demand of judgment.)

(76) For procuring Property by Fraud.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that (he, the defendant, was solvent, and worth ——— rupees over all his liabilities).

2.—That the plaintiff was thereby induced to sell (and deliver) to the defendant (dry goods) of the value of ——— rupees.

3.—That the said representations were false (*or state the particular falsehoods*), and were then known by the defendant to be so.

4.—That the defendant has not paid for the said goods. (*Or, if the goods were not delivered*, that the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended ——— rupees.)

(Demand of judgment.)

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(77) For Fraudulently procuring Credit to be given to another Person.

(*Title.*)

1.—That on the ——— day of ———, 18—, at ———, the defendant represented to the plaintiff that one *E. F.* was solvent and in good credit, and worth ——— rupees over all his liabilities (*or*, that *E. F.* then held a responsible situation, and was in good circumstances, and might safely be trusted with goods on credit).

2.—That the plaintiff was thereby induced to sell to the said *E. F.* (*rice*) of the value of ——— rupees (on ——— month's credit).

3.—That the said representations were false, and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff (*or*, to deceive and injure plaintiff).

4.—That the said *E. F.* did not pay for the said goods at the expiration of the credit aforesaid (*or* has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises).

(Demand of judgment.)

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(78) For Polluting the Water under the Plaintiff's Land.

(*Title.*)

1.—That he is, and at all the times hereinafter mentioned was, possessed of certain land called ———, and situate in ———, and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.

2.—That on the ——— day of ———, 18—, the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.

3.—That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

(Demand of judgment.)

(79) For carrying on a Noxious Manufacture.

(*Title.*)

1.—That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called ———, situate in ———.

2.—That ever since the ——— day of ———, 18 —, the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.

3.—That thereby the trees, hedges, herbage, and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and livestock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.

4.—That by reason of the premises, the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep, and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

(Demand of judgment.)

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(80) For Obstructing a Way.

(*Title.*)

1.—That the plaintiff is, and at the time hereinafter mentioned was, possessed of (a house in the village of ———).

2.—That he was entitled to a right of way from the said (house) over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants (with vehicles, *or*, on foot), at all times of the year.

3.—That on the ——— day of ———, 18 —, defendant wrongfully obstructed the said way, so that the plaintiff could not pass (with vehicles, *or*, on foot, *or*, in any manner) along the said way (and has ever since wrongfully obstructed the same).

4.—(*State special damage, if any.*)

(Demand of judgment.)

Another Form.

1.—That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from ——— to ——— so as to obstruct it.

2.—That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones (*or*, into the said trench) and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

(Demand of judgment.)

(81) For Diverting a Water-course.

(*Title.*)

1.—That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a (stream) known as the ———, in the village of ———, district of ———.

2.—That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3.—That on the ——— day of ———, 18 —, the defendant, by cutting the bank of the said stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4.—That by reason thereof, the plaintiff has been unable to grind more than ——— sacks per day, whereas, before the said diversion of water, he was able to grind ——— sacks per day.

(Demand of judgment.)

(82) For Obstructing a Right to use Water for Irrigation.

(*Title.*)

1.—That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c., and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2.—That on the ——— day of ———, the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by wrongfully obstructing and diverting the said stream.

(Demand of judgment.)

(83) For Waste by a Lessee.

(*Title.*)

1.—That on the ——— day of ———, 18 —, the defendant hired from plaintiff (the house No. ——, ——— street) for the term of ———.

2.—That the defendant occupied the same under such hiring.

3.—That during the period of such occupation, the defendant greatly injured the premises (defaced the walls, tore up the floors, and broke down the doors; *or otherwise specify the injuries as far as possible*).

The plaintiff prays judgment for ——— rupees compensation.

(84) For Assault and Battery.

(*Title.*)

That on the ——— day of ———, 18 —, at ———, the defendant assaulted and beat plaintiff.

The plaintiff prays judgment for ——— rupees compensation.

(85) For Assault and Battery, with Special Damage.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant assaulted and beat him until he became insensible.

2.—That the plaintiff was thereby disabled from attending to his business for (*six weeks thereafter*), and was compelled to pay ——— rupees for medical attendance, and has been ever since disabled (*from using his right arm, or otherwise state the damage as the case may be*).

(Demand of judgment.)

(86) For Assault and False Imprisonment.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant assaulted the plaintiff and imprisoned him for ——— days (*or* hours) ; (*state special damage, if any, thus*—)

2.—That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment (*or otherwise as the case may be*).

(Demand of judgment.)

(87) For Injuries caused by Negligence on a Railroad.

(*Title.*)

1.—That on the ——— day of ———, 18 —, the defendants were common carriers of passengers by railway between ——— and ———.

2.—That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.

3.—That while he was such passenger, at ——— (*or*, near the station of ——— ; *or*, between the stations of ——— and ———), a collision occurred on the said railway caused by the negligence and unskilfulness of the defendants' servants, whereby the plaintiff was much injured (*having his leg broken, his head cut, &c., and state the special damage, if any, as* ———) and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as (*a salesman*).

(Demand of judgment.)

(*Or thus :* 2.—That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., *as in section* 3.)

(88) For Injuries caused by Negligent Driving.

(*Title.*)

1.—The plaintiff is a shoemaker, carrying on business at ———. The defendant is a merchant of ———.

2.—On the (*23rd May, 1885*) the plaintiff was walking eastward along ——— street, in Colombo, at about 3 o'clock in the afternoon. He was obliged to cross ——— street, which is a street running into ——— street at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly, and without any warning, turned at a rapid and dangerous pace out of ——— street into ——— street. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.

3.—By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims ——— rupees damages.

(89) For Libel, the Words being Libellous in themselves.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant published in a newspaper, called the ——— (*or*, in a letter addressed to *E. F.*), the following words concerning the plaintiff :

(*Set forth the words used.*)

2.—That the said publication was false and malicious.

(Demand of judgment.)

NOTE.—If the libel was in a language not the language of the court, set out the libel *verbatim* in the foreign language in which it was published, and then proceed thus :—" Which said words, being translated into the ——— language, have the meaning and effect following, and were so understood by the persons to whom they were so published ; that is to say (*here set out a literal translation of the libel in the language of the court*).

(90) For Libel, the Words not being Libellous in themselves.

(*Title.*)

1.—That the plaintiff (is, and) was on and before the ——— day of ———, 18—, a merchant doing business in the city of ———.

2.—That on the ——— day of ———, 18 —, at ———, the defendant published in a newspaper, called the ——— (*or*, in a letter addressed *E. F.*, *or otherwise how published*), the following words concerning the plaintiff :

(" *A. B.* of this city has modestly retired to foreign lands. It is said that creditors to the amount of ——— rupees are anxiously seeking his address.")

3.—That the defendant meant thereby that (the plaintiff had absconded to avoid his creditors, and with intent to defraud them).

That the said publication was false and malicious.

(Demand of judgment.)

(91) For Slander, the Words being Actionable in themselves.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant falsely and maliciously spoke, in the hearing of *E. F.* (*or*, sundry persons) the following words concerning the plaintiff: (" He is a thief.")

2.—That, in consequence of the said words, the plaintiff lost his situation as ——— in the employ of ———.

(Demand of judgment.)

(92) For Slander, the Words not being Actionable in themselves.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant falsely and maliciously said to one *E. F.* concerning the plaintiff : (" He is a young man of remarkably easy conscience").

2.—That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.

3.—That in consequence of the said words (the said *E. F.* refused to employ the plaintiff as a clerk).

(Demand of judgment.)

(93) For Malicious Prosecution.

(*Title*).

1.—That on the ——— day of ———, 18—, at———, the defendant obtained a warrant of arrest from ———, a (magistrate of the said city, *or*, *as the case may be*), on a charge of ———, and the plaintiff was arrested thereon, and imprisoned for ——— (days *or* hours, and gave bail in the sum of ——— rupees to obtain his release).

2.—That in so doing the defendant acted maliciously and without reasonable or probable cause.

3.—That on the ——— day of ———, 18—, the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.

4.—That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; (*or* that, in consequence of the said arrest, the plaintiff lost his situation as a clerk to one *E. F.*, *or* that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint).

(Demand of judgment.)

Plaints in Actions for Specific Property.

(94) By the Absolute Owner for the Possession of Immovable Property.

(*Title.*)

1.—That *X. Y.* was the absolute owner (of the estate, *or*, the share of the estate, called ———, situate in the district of ———, of the estimated value of ——— rupees, *or*, of the house No. ——, ——— street, in the town of *Colombo*, the estimated value of which is ——— rupees).

2.—That on the ——— day of ———, 18—, *Z.* illegally dispossessed the said *X. Y.* of the estate (*or* share *or* house).

3.—That the said *X. Y.* has since died intestate, leaving the plaintiff, the said *A. B.*, his heir him surviving.

4.—That the defendant withholds the possession of the estate (*or* share *or* house) from the plaintiff.

The plaintiff prays judgment:

(1) For the possession of the said premises;
(2) For ——— rupees compensation for withholding the same.

Another Form.

1.—On the ——— day of ———, the plaintiff, by an instrument in writing, let to the defendant a house and premises (No. *52*, ———, in the ———) for a term of *five* years from the ——— day of ———, at the monthly rent of *three hundred rupees.*

2.—By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.

3.—The said instrument contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.

4.—On the ——— day of ———, 18 —, a month's rent became due, and on the ——— day of ———, 18 —, another month's rent became due; on the ——— day of ———, 18 —, both had been in arrear for twenty-one days, and both are still due.

5.—On the same ——— day of ———, 18 —, the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to re-instate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims:

(1) Possession of the said house and premises;
(2) ——— rupees for arrears of rent;
(3) ——— rupees compensation for the defendant's breach of his covenant to repair;
(4) ——— rupees for the occupation of the house and premises from the ——— day of ———, 18 —, to the day of recovering possession.

---

(95) By the Tenant.

(*Title.*)

1.—That one *E. F.* is the absolute owner of (a piece of land in the town of ———, bounded as follows:———), the estimated value of which is ——— rupees.

2.—That on the ——— day of ———, 18 —, the said *E. F.* let the said premises to the plaintiff for ——— years, from ———.

3.—That the defendant withholds the possession thereof from the plaintiff.

(Demand of judgment.)

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(96) For Movable Property wrongfully taken.

(*Title.*)

1.—That on the ——— day of ———, 18 —, plaintiff owned (*or* was possessed of) *one hundred barrels of flour*, the estimated value of which is ——— rupees.

2.—That on that day, at ———, the defendant took the same.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for ——— rupees in case such possession cannot be had;
(2) For ——— rupees compensation for the detention thereof.

---

(97) For Movables wrongfully detained.

(*Title.*)

1.—That on the ——— day of ———, 18 —, plaintiff owned (*or, state facts showing a right to the possession*) the goods mentioned in the schedule hereto annexed (*or describe the goods*), the estimated value of which is ——— rupees.

2.—That from that day until the commencement of this suit the defendant has detained the same from the plaintiff.

3.—That before the commencement of this suit, to wit, on the ——— day of ———, 18 —, the plaintiff demanded the same from the defendant, but he refused to deliver them.

The plaintiff prays judgment:

(1) For the possession of the said goods, or for ——— rupees, in case such possession cannot be had;
(2) For ——— rupees compensation for the detention thereof.

The Schedule.

(98) Against a Fraudulent Purchaser and his Transferee, with Notice.

(*Title.*)

1.—That on the ——— day of ———, 18 —, at ———, the defendant *C. D.*, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that (he was solvent, and worth ——— rupees over all his liabilities).

2.—That the plaintiff was thereby induced to sell and deliver to the said *C. D.* (*one hundred boxes of tea*), the estimated value of which is ——— rupees.

3.—That the said representations were false, and were then known by the said *C. D.* to be so. (*Or*, That at the time of making the said representations the said *C. D.* was insolvent, and knew himself to be so.)

4.—That the said *C. D.* afterwards transferred the said goods to the defendant *E. F.* without consideration (*or* who had notice of the falsity of the representation).

The plaintiff prays judgment:

(1) For the possession of the said goods, or for ——— rupees in case such possession cannot be had;

(2) For ——— rupees compensation for the detention thereof.

Plaints in Actions for Special Relief.

(99) For Rescission of a Contract on the Ground of Mistake.

(*Title.*)

1.—That on the ——— day of ———, 18—, the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at ———, contained (*ten acres*).

2.—That the plaintiff was thereby induced to purchase the same at the price of ——— rupees, in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.

3.—That on the ——— day of ———, 18 —, the plaintiff paid the defendant ——— rupees as part of such purchase-money.

4.—That the said piece of ground contained in fact only (*five acres*).

The plaintiff prays judgment:

(1) For ——— rupees, with interest from the ——— day of ———, 18 —;

(2) That the said agreement of purchase be delivered up and cancelled.

---

(100) For an Injunction restraining Waste.

1.—That plaintiff is the absolute owner of (*describe the property*).

2.—That the defendant is in possession of the same under a lease from the plaintiff.

3.—That the defendant has (*cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale*) without the consent of the plaintiff.

The plaintiff prays judgment that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

(Pecuniary compensation might also be prayed.)

(101) For Abatement of a Nuisance.

(*Title.*)

1.—That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of (the house No. ——, ——— street).

2.—That the defendant is, and at all the said times was, the absolute owner of a (plot of ground in the same street ———).

3.—That on the ——— day of ———, 18 —, the defendant erected upon his said plot a slaughter-house, and still maintains the same ; and from that day until the present time has continually caused cattle to be brought and killed there (and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff).

4.—That (the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same).

The plaintiff prays judgment that the said nuisance be abated

(102) For an Injunction against the Diversion of a Water-course.

(*Title.*)

(*As in form No. 81.*)

The plaintiff prays judgment that the defendant be restrained by injunction from diverting the water as aforesaid.

(103) For Restoration of Movable Property, threatened with Destruction, and for an Injunction.

(*Title.*)

1.—That plaintiff is, and at all the times hereinafter mentioned was, the owner of (*a portrait of his grandfather, which was executed by an eminent painter*), and of which no duplicate exists (*or, state any facts showing that the property is of a kind that cannot be replaced by money*).

2.—That on the ——— day of ———, 18 —, he deposited the same for safe keeping with the defendant.

3.—That on the ——— day of ———, 18 —, he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4.—That the defendant refuses to deliver the same to the plaintiff, and threatens to conceal, dispose of, cut, or injure the same if required to deliver it up.

5.—That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the (*painting*).

The plaintiff prays judgment :

(1) That the defendant be restrained by injunction from disposing of, injuring, or concealing the said (*painting*) ;

(2) That he return the same to the plaintiff.

(104) Interpleader.

(*Title.*)

1.—That before the date of the claims hereinafter mentioned, one *G. H.* deposited with the plaintiff (*describe the property*) for (safe keeping).

2.—That the defendant, *C. D.*, claims the same (under an alleged assignment thereof to him from the said *G. H.*).

3.—That the defendant, *E. F.*, also claims the same (under an order of the said *G. H.* transferring the same to him).

4.—That the plaintiff is ignorant of the respective rights of the defendants.

5.—That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the court shall direct.

6.—That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

(1) That the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;

(2) That they be required to interplead together concerning their claims to the said property;

(3) That some person be authorized to receive the said property pending such litigation;

(4) That upon delivering the same to such (person), the plaintiff be discharged from all liability to either of the defendants in relation thereto.

---

(105) Execution of Trusts.

(*Title.*)

1.—That plaintiff is one of the trustees under an instrument of settlement bearing date on or about the ——— day of ———, made upon the marriage of *E. F.* and *G. H.*, the father and mother of the defendant (*or*, an instrument of assignment of the estate and effects of *E. F.* for the benefit of *C. D.*, the defendant, and other the creditors of *E. F.*).

2.—The plaintiff has taken upon himself the burden of the said trust, and is in possession of (*or*, of the proceeds of) the movable and immovable property conveyed (*or* assigned) by the before-mentioned deed.

3.—The said *C. D.* claims to be entitled to a beneficial interest under the before-mentioned deed.

4.—The plaintiff is desirous to account for all the rents and profits of the said immovable property (and the proceeds of the sale of the said, *or* of part of the said, immovable property, *or* movable, *or* the proceeds of the sale of, *or* part of, the said movable property, *or* the profits accruing to the plaintiff as such trustee in the execution of the said trust); and he prays that the court will take the accounts of the said trust, and also that the whole of the said trust-estate may be administered in the court for the benefit of the said *C. D.*, the defendant, and all other persons who may be interested in such administration, in the presence of the said *C. D.* and such other persons so interested as the court may direct, or that the said *C. D.* may show good cause to the contrary.

---

(106) Realization of Mortgage.

(*Title.*)

1.—By a writing obligatory dated the ——— day of ———, 18—, the defendant bound himself to pay to the plaintiff (his heirs, &c.) the principal sum of ——— rupees, together with interest thereon at the rate of ——— per cent. per annum (on demand, *or as the case may be*).

2.—For securing the payment of the said principal and interest the defendant mortgaged with the plaintiff, his heirs, &c., the following property (*describe*).

3.—(*Where the bond is not payable on demand, allege notice*).

4.—There is now due from the defendant to the plaintiff the sum of ——— rupees for principal and interest on the said writing.

5.—The plaintiff prays that the court will order the defendant to pay him the said sum of ——— rupees, with such further interest as may accrue between the filing of the libel and the day of payment, and also the costs of this action, on some day to be named by the court, and in default that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest, and costs; and that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of ——— per cent. per annum until realization; and that for that purpose all proper directions may be given, and accounts taken by the court.

(107) Redemption.

(*Title.*)

Alter form No. 106 thus:

Transpose parties and also the facts in paragraphs 1 and 2.

For paragraph 4, substitute—

4.—There is now due from the plaintiff to the defendant, for principal and interest on the said writing, the sum of ——— rupees, which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before the filing of this libel, had notice.

For paragraph 5, substitute—

5.—The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to release the same to him upon payment of the said sum of ——— rupees and interest, with such costs (if any) as the court may order, upon a day to be named by the court, and that the court will give all proper directions for the preparation and execution of such release and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

(108) Specific Performance (No. 1).

(*Title.*)

1.—By an agreement dated the ——— day of ———, and signed by the above-named defendant, *C. D.*, he, the said *C. D.*, contracted to buy of (*or* sell to) plaintiff certain immovable property therein described and referred to, for the sum of ——— rupees.

2.—Plaintiff has applied to the said *C. D.* specifically to perform the said agreement on his part, but he has not done so.

3.—Plaintiff has been and still is ready and willing specifically to perform the agreement on his part, of which the said *C. D.* has had notice.

4.—The plaintiff prays that the court will order the said *C. D.* specifically to perform the said agreement, and to do all acts necessary to put plaintiff in full possession of the said property (*or* to accept a conveyance and possession of the said property) and to pay the costs of the action.

[*N.B.—In action for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled —such as, that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.*]

(109) Specific Performance (No. 2).

(*Title.*)

1.—That on the ——— day of ———, 18 —, the defendant was absolutely entitled to certain immovable property described in the agreement hereto annexed.

2.—That on the same day the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3.—That on the ——— day of ———, 18 —, the plaintiff tendered ——— rupees to the defendant, and demanded a conveyance of the said property.

4.—That on the ——— day of ———, 18 —, the plaintiff again demanded such conveyance.

5.—That the defendant has not executed such conveyance. (*Or*, That the defendant refused to convey the same to the plaintiff.)

6.—That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

(1) That the defendant execute to the plaintiff a sufficient conveyance of the said property (*following the terms of the agreement*);

(2) For ——— rupees compensation for withholding the same.

---

(110) Partnership.

(*Title.*)

1.—He, the plaintiff, and the said *C. D.*, the defendant, have been for the space of ——— years (*or* months) last past carrying on business together at ——— within the jurisdiction of this court, under certain articles of partnership in writing, signed by them respectively (*or*, under a certain deed sealed and executed by them respectively, *or*, under a verbal agreement between them, the said plaintiff and defendant).

2.—Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3.—The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles (*or* deed *or* agreement).

4.—The plaintiff prays the court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the court, and the assets thereof realized, and that each party may be ordered to pay into court any balance due from him upon such partnership account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the action may be paid out of the partnership assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles (*or* deed *or* agreement), or that, if the said assets shall prove insufficient, he, the plaintiff, and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities, and costs. And to give such other relief as the court shall think fit.

[*N.B.—In actions for winding-up of any partnership, omit the prayer for dissolution: but insert a paragraph stating the fact of the partnership having been dissolved.*]

No. 34.—Form of Order for the Personal Appearance of a Plaintiff, or of the Director or Secretary or other Principal Officer of a Corporation or Company.

(See Sections 57 and 471.)

(*Title.*)

To ———, of ———, plaintiff in the above-named action (*or* director *or* secretary *or other principal officer* of the ——— company *or* corporation).

You are hereby summoned to attend in person in this court in the action above specified, at ——— o'clock of the forenoon on the ——— day of ———, 18—.

Signed ———
(*Name and office of Judge.*)

The ——— day of ———, 18—.

No. 35.—Form of List of Documents produced by Parties at the Hearing.

(See Section 113.)

(*Title.*)

No	Description of Document.	Date (if any) which it bears.	Signature of Party or Proctor.

No. 36.—Form of Receipt Book for Returned Exhibits.

(See Section 116.)

Description of Exhibit.	By whom presented.	No. of Action in which presented.	Date on which time for appeal elapsed or appeal disposed of.	Cost of copy paid.	Signature of person to whom Exhibit returned.	Date of return.	Signature of Officer by whom Exhibit returned.
Enter description merely, and not substance of exhibit.							(Should be signed by officer in charge of this register.)

No. 37.—Form of Proclamation to be issued when Summons cannot be served.

(See Section 131.)

In the District Court of ——— (*or as the case may be*).

PROCLAMATION.

(*Title.*)

To all to whom these presents shall come, greeting.

Whereas it appears by the return made by the Fiscal of ——— to a certain summons issued in the above-named action at the instance of the above-named (plaintiff *or* defendant), whereby one (*name of witness*) was required to appear and testify on behalf of the (plaintiff *or* defendant) in the said action (*or* to produce *any document required, describing it*), that the said Fiscal has not been able to serve a copy of the said summons on the said (*witness*): And whereas it appears to the satisfaction of this court that the said (*witness*) has absconded (*or* is keeping out of the way for the purpose of avoiding such service as aforesaid), and that he is a necessary and material witness on behalf of the said (plaintiff *or* defendant) at the trial of the above-named action (*or* that the production of the said (*document*) is necessary and material, &c.), without whose testimony (*or* without which) the said (plaintiff *or* defendant) cannot safely proceed to trial: It is hereby proclaimed that the said (*witness*) is required to attend at this court on the ——— day of ———, 18 —, at ——— o'clock of the forenoon, to give evidence (*or* to produce, *as before*) on behalf of the said (plaintiff *or* defendant) under pain of sequestration of the movable and immovable property of the said ——— in case of his default, and of such further proceedings as may be found necessary

By order of court,

The ——— day of ———, 18 —. *Signed* ———,
Secretary (*or as the case may be*).

No. 38.—Form of Mandate of Sequestration after Proclamation.

(See Section 131.)

(*Title.*)

To the Fiscal of ———.

Whereas it appears by the return made by you (*or* by the Fiscal of ———, *as the case may be*) to a certain summons issued in the above-named action at the instance of the above-named (plaintiff *or* defendant), whereby one (*name of witness*) was required to appear and testify on behalf of the (plaintiff *or* defendant) in the said action (*or* to produce *any document, describing it*) that you (*or* the said, *&c., as the case may be*) have (has) not been able to serve a copy of the said summons on the said (*witness*): And whereas it has been proved to the satisfaction of this court that the said (*witness*) has absconded (*or* is keeping out of the way for the purpose of avoiding such service as aforesaid), and that he is a necessary and material witness on behalf of the said (plaintiff *or* defendant) at the trial of the above-named action (*or* that the production of the said (*document*) is necessary and material, *&c.*), without whose testimony (*or* without which) the said (plaintiff *or* defendant) cannot safely proceed to trial: And whereas in consideration of the premises a proclamation was on the ——— day of ———, 18 —, issued by this court requiring the attendance of the said (*witness*) at this court for the purpose aforesaid on the ———

day of ———, 18 —, at ——— o'clock of the forenoon, and the said (*witness*) has not attended at such time and place in accordance with the terms of such proclamation : You are therefore commanded to seize and sequester the houses, lands, goods, moneys, securities for money and debts of the said (*witness*) to the value of (*insert value not exceeding the amount of cost of sequestration and of the fine imposable under section 133*), wheresoever and in whose custody or possession soever the same may be within this district, and to retain and secure the same until the said (*witness*) shall appear and abide by the order of this court or until you receive further directions from this court herein : and to give due notice in writing to all persons in whose possession or power such property of the said (*witness*), whether movable or immovable, shall be, of this sequestration, and requiring them to reserve and retain the same, and all issues, rents, profits, and interest accruing therefrom, to abide the order of this court. And you are further commanded on the ——— day of ——— next to inform this court what property you shall have so seized and sequestered, with the true value of the same and in whose possession the same respectively was at the time of such seizure : and have you there this mandate.

By order of court,

The ——— day of ———, 18 —. *Signed* ———,
Secretary (*or as the case may be*).

Endorsement on the above for further Sequestration.

To the Fiscal of ———.

Seize and sequester property of the within-named defendant to the further amount of ——— rupees, in manner and form as you were hereby before directed.

Signed ———,
District Judge.

No. 39.—Form of Warrant of Arrest against a Witness for Disobedience to a Summons.

(See Section 137.)

(*Title.*)

To the Fiscal of ———.

Whereas it appears by your return to a certain summons issued in the above-named action at the instance of (plaintiff *or* defendant), whereby one (*name of witness*) was required to appear and testify on behalf of the (plaintiff *or* defendant) in the said action (*or* to produce *any document required, describing it*), that the said (*witness*) named therein was duly served with a copy thereof, but the said (*witness*) has failed to appear in obedience thereto (*or*, having appeared has departed in contravention of the provisions of section 136 of the Code of Civil Procedure): You are therefore to seize and arrest the said (*witness*) and bring him before this court forthwith, in order that he may undergo the penalties legally awarded against him for such contempt and disobedience, and further perform and abide by such order as the court shall make in this behalf : and have you there this warrant.

Signed ———,
District Judge (*or as the case may be*).

The ——— day of ———, 18 —.

No. 40.—Form of Notice to Parties of the day fixed for the Examination of a Witness about to leave the Jurisdiction.

(See Section 178).

(*Title.*)

To (plaintiff *or* defendant).

Whereas application has been made to this court by the (defendant *or* plaintiff) in the above-named action that the examination of ———, of ———, a witness required by him in the said action, may be taken immediately; and it has been shown to the satisfaction of this court that the said witness is about to leave the court's jurisdiction (*or state any other good and sufficient cause*): Take notice that the examination of the said (*witness*) will be taken by the court on the ——— day of ———, 18 —, at ——— o'clock.

By order of court,

Signed ———,

The ——— day of ———, 18 —. Secretary.

No. 41.—Form of Decree.

(See Sections 188–204.)

(*Title.*)

This action coming on for final disposal before (*name and office of judge*) on the ——— day of ———, 18 — (in the presence of ——— on the part of the plaintiff and ——— on the part of the defendant), it is ordered and decreed (*specify in precise terms the order made in the judgment*).

(And it is further ordered that the said ——— do pay to the said ——— his costs of this action (*in Courts of Requests stating the amount*) as taxed by the officer of the court, with interest thereon at the rate of ——— from the date of taxation to the date of realization.)

(*Where the decree is for delivery of immovable property, describe the property in accordance with the requirements of section 190.*

Where the decree is for delivery of movable property, specify the amount to be paid as an alternative if delivery cannot be had.

In case of specific performance state the amount of damages to be paid if the contract is not performed.

Where defendant is allowed a set-off, state what is due to plaintiff and defendant, and decree recovery of the balance.

Where mesne profits pending or prior to action are claimed, vary decree according to sections 195, 196.

Where the action is to enforce a right of pre-emption, or to realize a mortgage, carry out the directions of sections 200, 201.

In any case where a decree or order has the effect of postponing the final determination of a case, specify therein the date of further hearing).

Signed ———

(*Name and office of Judge.*)

The ——— day of ———, 18 —.

No. 42.—Form of Application for execution of a Decree by Seizure and Sale of Movable Property.

(See Sections 224 and 225.)

In the District Court of ———.

I, *A. B.*, plaintiff, hereby apply for execution of the decree hereinbelow set forth :

Number of Action.	Names of Parties.	Date of Decree.	Whether any Appeal preferred.	Adjustment made, if any.	Previous Application, if any, and Result.	Amount of Debt, Compensation, Interest, or other Relief granted by Decree.	Amount of Costs, if any, awarded.	Against whom to be enforced.	Mode in which the Court's assistance is required.
1	2	3	4	5	6	7	8	9	10
No. 175, D. C. Colombo	*A. B., plaintiff, against C. D., defendant*	*21st January, 1888*	*No*	—	—	*Rs. 250 principal (interest at — per cent. from date of decree to payment)*	*Rs. 25·75 costs as awarded in the decree, Rs. 10·50 subsequently incurred* ——— *Rs. 36·25*	*The defendant, C. D.*	*I pray that the total amount of Rs. ——— (together with interest on the principal sum up to date of payment), and the costs of taking out this execution be realized by (indicate manner of relief required)*

I, *A. B.*, hereby declare that what is stated herein is true to the best of my information and belief.

(Signed) *A. B.*

This ——— day of ———, 18 —.

No. 43.—Form of Writ of Execution against Property.

(See Section 225.)

(*Title.*)

To the Fiscal of the ——— Province.

Levy and make of the houses, lands, goods, debts, and credits of the above-named ———, by seizure, and, if necessary, by sale thereof, the sum of ——— rupees, which the said ——— has recovered against the said ——— by a judgment of the court bearing date the ——— day of ———, 18 —, and have that money before this court on the ——— day of ———, 18 —, to render to the said ———, and inform this court for what sum or sums, and to what person or persons, you have sold the property respectively : and have you there this mandate.

By order of court,

Signed ———,

Secretary.

The ——— day of ———, 18 —.

No. 44.—Forms of Prohibitory Notices.

(Under Section 229.)

(*In the case of a debt not secured by a negotiable instrument.*)

To (*defendant*) and to (*defendant's debtor*).

Whereas (*defendant*) has failed to satisfy a decree passed against him on the ——— day of ———, 18 —, in (*title, &c., of case*), in favour of ——— for ——— rupees: I hereby give you notice that you, the said defendant, are hereby prohibited and restrained until the further order of the court from which execution in the said action issued from receiving from the said (*debtor*) a certain debt alleged to be now due from him to you, namely (*particularize it*): and that you the said ——— are hereby prohibited and restrained until such further order from making payment of the said debt or any part thereof to any person whomsoever.

Signed ———,
Fiscal.

The ——— day of ———, 18 —.

No. 45.

(*In case of a share in a Public Company, &c.*)

To (*defendant*) and to Manager (*&c.*), ——— company.

Whereas ——— has failed to satisfy a decree (*recital as in No. 44*): I hereby give you notice that you, the defendant, are hereby prohibited and restrained until the further order of the court (*as before*) from making any transfer of ——— shares in the aforesaid company, namely, ———, or from receiving payment of any dividends thereof: and that you, the said ———, manager of the said company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

Signed ———,
Fiscal.

No. 46.

(*In case of movable property not in the possession of the judgment-debtor.*)

To (*defendant*) and to (*person in possession*).

Whereas (*recital as in No. 44*): I hereby give you notice that you, the said defendant, are hereby prohibited and restrained until the further order (*as before*) from receiving from the said ——— the following property now in his possession; that is to say (*name it*), to which you the said defendant are entitled subject to any claim of the said ———, and that you, the said ———, are hereby prohibited and restrained until (*as before*) from delivering such property to any person whomsoever.

Signed ———,
Fiscal.

No. 47.—Form of Notice where Property is in custody of a Court or Public Officer.

(See Section 232.)

(*Title.*)

To ———.

Sir,—The plaintiff in the above-named action having applied under section ——— of the Civil Procedure Code for seizure of certain moneys (*or as the case is*) now in your hands (*state how the moneys, &c., are in the hands of the person addressed, and on what account, &c.*), I request that you will hold the said (moneys) and any interest or dividend becoming payable thereon, subject to the further order of the court from which writ of execution in the said action issued.

I have, &c.,

———

The ——— day of ———, 18 —. Fiscal.

No. 48.—Form of Notice to a Court requesting stay of execution of its Decree.

(See Section 234.)

(*Title.*)

To (*name and office of judge*).

Whereas *A. B.*, plaintiff in the above-named action, obtained a decree against *C. D.*, defendant in the said action, in this court on the ——— day of ———, 18 —, for the payment of ——— rupees; and whereas application has been made to this court for the seizure in execution of the said decree of a decree obtained in your court by the said defendant against ——— in (*title of action*): you are hereby requested to stay the execution of your said decree (until this notice shall be cancelled by this court, *or as the case may be*).

By order of court,

Signed ———,

The ——— day of ———, 18 —. Secretary.

No. 49.—Form of Prohibitory Notice to Holder of a Decree sought to be seized.

(See Section 235.)

(*Title.*)

To (*defendant*).

Whereas in execution of the decree passed against you in the above-named action application has been made for the seizure of the decree passed against ——— in (*title, &c., of action*) of which you are the holder: you are hereby prohibited from transferring or charging the said decree in any way.

By order of court,

Signed ———,

Secretary.

No. 50.—Form of Prohibitory Notice in case of Immovable Property.

(See Section 237.)

To (*defendant*).

Whereas you have failed to satisfy a decree passed against you on the ——— day of ———, 18 —, in (*title, &c., of case*), in favour of ———, for ——— rupees (*here set out the particulars required by the section*), I hereby give you notice that you, the said defendant, are hereby prohibited and restrained until the further order of the court from which execution in the said action issued from in any way transferring, alienating, or charging the property specified in the schedule hereto annexed, and that all persons are prohibited from receiving the same or any part thereof by purchase, gift, or otherwise.

Signed ———,

The ——— day of ———, 18 —. Fiscal.

(The Schedule.)

No. 51.—Form of Certificate to Judgment-Debtor authorizing him to Mortgage, Lease, or sell Property.

(See Section 259.)

(*Title.*)

Whereas in execution of the decree passed in the above-named action notice of the sale of certain immovable property of the judgment-debtor, ———, has been given, and the court has, on the application of the said judgment-debtor, postponed the said sale to enable him to raise the amount of the decree by (mortgage, lease, *or* private sale, *as the case may be*) of the under-mentioned property or part thereof : This is to certify that the court doth hereby authorize the said judgment-debtor to make the proposed (mortgage, lease, *or* sale) within a period of ——— from the date of this certificate : Provided that all moneys payable under such (mortgage, lease, *or* sale) shall be paid into this court and not to the said judgment-debtor ; and provided, further, that no such (mortgage, lease, *or* sale) shall become absolute until the same shall have been confirmed by this court.

Signed ———,

The ——— day of ———, 18 —. Judge.

(Details of property referred to.)

No. 52.—Form of Fiscal's Certificate where there has been a Resale at a Loss : or a Failure to pay the Deposit.

(See Sections 260–267.)

(*Title.*)

I, *A. B.*, Fiscal of the ——— Province, hereby certify that the under-mentioned property was, on the ——— day of ———, 18 —, duly put up for sale under writ No. ——— of this court in execution of the decree in the above-named action.

One ——— was duly declared to be the purchaser of the said property at the said sale at the price of ——— rupees.

(The said ———, on being so declared to be such purchaser, failed to pay down the deposit of 25 per cent. on the amount of his purchase-money to the officer conducting the sale, and to give good and sufficient security to the satisfaction of such officer for the payment of the residue, in manner by law required ; and one ———, being the next highest bidder at the said sale, was thereupon duly declared to be the purchaser of the said property at the price of ——— rupees.

The said ——— thereupon became liable to pay the difference between the said several sums of ——— rupees and ——— rupees, amounting to ——— rupees.)

Or,

(The said ——— duly paid the deposit of 25 per cent. on the amount of his said purchase-money to the officer conducting the sale, and entered into good and sufficient security to the satisfaction of such officer for payment of the residue, in manner by law required, but the said ——— has failed to pay such residue, although thirty full days have elapsed since the day of sale.

In consequence of the failure aforesaid the said property was, on the ——— day of ———, 18 —, again put up for sale under the said writ, and resold, and one ——— was duly declared to be the purchaser at such resale at the price of ——— rupees.

The said ——— thereupon became liable to pay the difference between the said several sums of ——— rupees and ——— rupees, amounting to the sum of ——— rupees.)

(*Conclude:*) Demand in writing was duly made upon the said ——— for payment of the said sum of ——— rupees, on the ——— day of ———, 18 —, but although one week has elapsed since the date of such demand the said ——— has not paid the said sum of ——— rupees.

Signed ———,
Fiscal, ——— Province.

The ——— day of ———, 18 —.

(Schedule of property.)

No. 53.—Form of Notice to Person in Possession of Movables sold in Execution.

(See Section 278.)

(*Title.*)

To (*person in possession*).

Whereas ——— has become the purchaser at a sale by auction in execution of the decree in the above-named action of (*property*) now in your possession, I hereby give you notice that you are prohibited and restrained from delivering possession thereof to any person except the said ———.

Signed ———,
Fiscal.

The ——— day of ———, 18 —.

No. 54.—Form of Notice Prohibiting Payment of Debts sold in Execution to any Person but the Purchaser.

(See Section 279.)

To (*judgment-debtor*) and to (*judgment-debtor's debtor*).

Whereas ——— has become the purchaser at a sale (*&c.*) of a certain debt due from you, ———, to you, ———, that is to say (*state particulars*) : I hereby give you notice that you, the said ———, are hereby prohibited from receiving payment of the said debt, and you the said ——— from making payment of the same to any person except the said (*purchaser*).

Signed ———,
Fiscal.

The ——— day of ———, 18 —.

(Where the property sold in execution consists of shares, this form must be followed, but the notice will be directed to the person in whose name the shares are standing, and to the manager of the company, and will be prohibitory of transferring the shares or receiving or making payment of dividends thereon.)

No. 55.—Form of Order Confirming Sale of Land.

(See Section 283.)

(*Title.*)

Whereas the under-mentioned property was on the ——— day of ———, 18 —, sold by the Fiscal, ———, in execution of the decree in the above-named action: and whereas thirty days have elapsed since the receipt of the said Fiscal's report of the said sale, and no application has been made to set aside the same (*or that objections made have been disallowed*): It is ordered that the said sale be and the same is hereby confirmed. (*Mutatis mutandis*, where the sale is set aside.)

Signed ———

The ——— day of ———, 18 —. (*Name and office of Judge.*)

(Schedule.)

No. 56.—Form of Fiscal's Conveyance to Purchaser after Confirmation of Sale by Court.

(See Section 286.)

To all to whom these presents shall come, greeting.

Whereas by virtue of a writ of execution issued from the ——— court of ———, bearing date the ——— day of ———, 18 —, directed to the Fiscal (*or* Deputy Fiscal *as the case may be*) of the ——— Province, whereby he was directed (*insert directions of the writ*), *A. B.*, *Esquire* (*Fiscal*) of the said Province, did cause to be seized and taken the property hereinafter described, which, after due notice and publication in manner by law prescribed, was exposed to public sale on the ——— day of ———, 18 —, by ———, acting under the authority of the said Fiscal, and was sold to ——— as the highest bidder at the said sale for the sum of ——— rupees:

And whereas the said (*purchaser*) has duly paid to the said (*Fiscal*) the whole of the said purchase-money, and thus became entitled to a conveyance of the said property (*or where the plaintiff is purchaser:* And whereas the said (*purchaser*) has been allowed the amount of purchase (*or as the case may be*) in reduction of his claim, and has produced the order of court, copy whereof is hereunto annexed, and has thus become entitled, &c.): And whereas the said court by an order dated the ——— day of ———, 18 —, copy of which is hereunto annexed, has duly confirmed the said sale:

Now these presents witness that the said *A. B.*, Fiscal of the ——— Province, in consideration of the said sum of ——— rupees, so paid by (*or* credited to) the said (*purchaser*) as aforesaid, the receipt whereof the said *A. B.* doth hereby acknowledge, hath sold and assigned, and by these presents doth sell and assign, unto the said (*purchaser*), his heirs, executors, administrators, and assigns, all that (*name and description of the land by metes and bounds*), containing ———, and described in the diagram or map annexed to (*some title deed delivered to the purchaser, or if there is none then*) these presents, and marked ———, to have and to hold the same with their and every of their appurtenances to him the said (*purchaser*), his heirs, executors, administrators, and assigns for ever.

In witness whereof the said (*Fiscal*) hath hereunto subscribed his name at ———, this ——— day of ———, 18 —.

Witnesses: *Annexures.* ———
Fiscal.

(In cases where the sale has been effected in execution of a decree specifically directing a sale, the conveyance will be in accordance with the terms of the decree.)

No. 57.—Form of Order of Delivery of Possession to a Purchaser where Property in Occupancy of Judgment-Debtor.

(See Section 287.)

(*Title.*)

To the Fiscal, ——— Province.

Whereas ——— has become the purchaser of (*land*) at a sale in execution of the decree in the above-named action, and whereas the said (*land*) is in the possession of ———, you are hereby ordered to put the said (*purchaser*) into possession of the said (*land*), and, if need be, to remove any person bound by the decree who may refuse to vacate the same.

Signed ———
(*Name and office of Judge.*)

The ——— day of ———, 18 —.

Payments to Fiscals, &c.

No. 58.—Form of Note from Fiscal to Government Agent.

(See Section 296.)

No. of note : ———.
No. of action : ———.
Name of payee : ———.
Rs. ———.
Date of payment : ———.

———
Signature of Government Agent
or Assistant Government Agent.

No. of note : ———.
No. of action : ———.

To the Government Agent of ———. Please to receive from ——— Rs. ———.

Fiscal's Office.

No. 59.—Form of Register of such Notes.

(See Section 296.)

No.	No of Action.	District Court.	Plaintiff	Defendant.	Payer.	On what Account	Amount	Date of Issue	Date when Receipt sent back

No. 60.—Form of Warrant for Arrest of a Judgment-Debtor.

(See Section 305.)

(*Title.*)

To ———, Fiscal of ——— Province.

Whereas ——— was adjudged by a decree in the above-named action, dated the ——— day of ———, 18 —, to pay to the plaintiff above-named the sum of ——— rupees, as noted in the margin: And whereas the said sum of ——— rupees has not been paid to the said plaintiff in satisfaction of the said decree: And whereas (*state any other of the requisites required by section 298, as the case is*): These are to command you to arrest the said defendant, and unless the said defendant shall pay to you the said sum of ——— rupees, together with ——— rupees for the cost of executing this process, to bring the said defendant before this court with all convenient speed.

	Rs c.
Principal ..	—
Interest ..	—
Costs ..	—
Execution ..	—
Total ..	—

You are further commanded to return this warrant on or before the ——— day of ———, 18 —, with an endorsement showing the day on and the manner in which it has been executed, or the reason why it has not been executed.

Signed ———
(*Name and office of Judge.*)

The ——— day of ———, 18 —.

No. 61.—Form of Warrant of Commitment.

(See Section 305.)

(*Title.*)

To the Fiscal of ——— Province.

Receive into your custody the body of ———, taken under a warrant of arrest in execution dated ———, at the suit of ———, to satisfy a decree of this court dated the ——— for the sum of ——— rupees, together with this warrant, and him safely keep in prison for the period of six months unless he shall in the meantime be discharged by order of this court.

Signed ———
(*Name and office of Judge.*)

The ——— day of ———, 18 —.

No. 62.—Form of Writ for Delivery of a Specific Movable.

(See Section 320.)

(*Title.*)

To the Fiscal of ——— Province.

Whereas by a judgment of this court dated the ——— day of ———, 18 —, in the above-named action, the said (*plaintiff*) recovered against the said (*defendant*) (*or* the said defendant was ordered to deliver to the said plaintiff) the following (*specify movable property*): These are to command you that without delay you cause the said (*articles*) to be delivered to the said (*plaintiff*), or to such person as he shall authorize to receive the same. And in what manner you shall have executed this writ make appear to this court immediately after the execution thereof, and have you there, &c.

Signed ———.

The ——— day of ——— , 18 —.

No. 63.—Form of Writ for Delivery of Immovable Property.

(See Section 323.)

(*Title.*)

To the Fiscal, ———.

Whereas (*recite mutatis mutandis as in last form*): These are to command you that without delay you enter the same and cause the said ——— to have possession of the said land and premises, &c. And in what manner (*conclude as in last form*).

No. 64.—Form of Notice where a Sum of Money in Court is claimed.

(See Section 350.)

(*Title.*)

To (*names of parties and claimants*).

Take notice: That whereas the sum of ——— rupees (recovered under a writ of execution issued from this court on the ——— day of ———, 18 —, has been carried to the separate account of the plaintiff in the above-named action, *or as the case may be*) and is now in court standing to the credit of the said plaintiff, and whereas the said (*name or names of claimants*) has (have) given notice to this court of a claim on their behalf to the said sum of ——— rupees (or to ——— rupees, part of the said sum of ——— rupees) on the ground (*state ground*).

This court will on the ——— day of ———, 18 —, at ——— o'clock of the forenoon, proceed to hear and entertain the said claim, and determine the respective rights of the parties in the said sum.

By order of court,

Signed ———,

The ——— day of ———, 18 —. Secretary.

No. 65.—Form of Petition in an Action or Application of Summary Procedure.

(See Chapter XXIV.)

In the District Court of ———. ———, 18 —.

(*Where the application is not incidental to a pending action, set out, as in a plaint, name and description, &c., of parties, thus :*)

Between *A. B.*, *&c.*, petitioner, and *C. D.*, *&c.*, respondent.

(*Where the application is incidental to a pending action say*—)

In the matter of an action between (*set out the title*) and (in the matter of *A. B.*, deceased, *or as the case may be*).

The humble petition of the above-named (plaintiffs, *or as the case may be*) showeth as follows :

(*Set out a plain and concise statement of the facts constituting the ground of application and its circumstances, and of the petitioner's right to make it, e.g. :*)

1.—That the said *A. B.*, of ———, lately deceased, was one of the plaintiffs in the above-named action.

2.—That the said *A. B.* died on the ——— day of ———, 18— (*and go on to show that the right of action survives to the remaining plaintiff alone*).

(Your petitioner therefore humbly prays for an order that the above-named action do proceed at the instance of the said petitioner, or for such other order in the premises as to this court seems meet. And your petitioner will ever, &c.)

(*Annex to the petition any affidavits, &c.* (*see section 376*), *requisite to furnish primâ facie proof of the material facts set out.*)

No. 66.--Form of (*a*) Order *Nisi* or (*b*) Interlocutory Order on a Petition in an Action of Summary Procedure.

(See Section 377.)

(*Title.*)

This matter coming on for disposal before (*name and office of judge*) on the ——— day of ——— , 18—, after reading (the affidavit of ———, *or as the case may be*) and hearing the evidence of ——— (*as the case is*) (*recite petition and exhibits, &c., adduced in support*).

(*a*) (It is ordered that (*state the order as* that the said action do proceed at the instance of the said ———), unless sufficient cause be shown to the contrary on the ——— day of ———, 18—.)

(*b*) (It is ordered that the ——— day of ———, 18—, be, and the same is hereby appointed for the determination of the matters in the said petition contained, and that the said (*respondent*) be heard in opposition to the prayer of the same if he appear before this court on the said day.)

In the alternative (*a*)—

(It is further ordered that the (*respondent*) do pay to the (*petitioner*) his costs of, and occasioned by, this application.)

(*Signed, &c., as in No. 41.*)

No. 67.—Form of Order refusing Petition where grounds adduced insufficient to show *primâ facie* Case.

(See Section 380.)

(*Proceed as in No. 66, and the order will be*—)

It is ordered that the prayer of the said petition be and the same is hereby refused.

No. 68.—Form of Order Dismissing Petition where Petitioner does not appear.

(See Section 382.)

(*Proceed as in No. 66, reciting the order made under* (*b*) *of section 377, and continue*—)

And the said (*petitioner*) not having appeared either in person or by counsel before this court in support of his said petition :

It is ordered that the said petition be, and the same is hereby dismissed. (It is further ordered that the said (*petitioner*) do pay to the said (*respondent*) his costs of, and occasioned by, this application.)

No. 69.—Form of Order where Respondent does not appear.

(See Section 383.)

(*Proceed as in No. 66, reciting the order made under section 377; and continue*—)

And the petitioner having appeared in (person *or* by proctor *or* counsel) in support of his said petition, and the respondent not having appeared either in person or by proctor or counsel, although the said recited order was duly served upon him as appears by the (oath or affidavit) of ———.

(*Then, if the order is an order nisi under section 377* (*a*)—)

The above order is made absolute.

(*But if the order was an interlocutory order under section 377* (*b*)—)

It is ordered (*state the order : and where costs have been prayed in the petition, and the court thinks right to allow them, further order as to costs*)

No. 70.—Form of Order where both Parties appear.

(See Sections 384, 386, and 387.)

(*Proceed as in No. 66, reciting the order under section 377, and continue*—) And both parties appearing (in person, *or as may be*) and (the affidavit of ——— having been read) and (the evidence of ——— taken) and both parties heard: It is ordered on the application of (*petitioner*) that this matter be adjourned to the ——— day of ———, 18—, to enable the said (*petitioner*) to adduce additional evidence in support of his said petition, or that the questions or issues of fact arising in this matter be tried and determined.

The questions or issues of fact to be so tried and determined on such day are:

1.—Whether, *&c.*

2.—Whether *&c.*

(Formal conclusion as in No. 41.)

No. 71.—Form of Summons to Legal Representative of a Deceased Defendant.

(See Section 398.)

(*Title.*)

To ———, of ———.

Whereas the above-named ——— has, as plaintiff, instituted the above-named action in this court against the above-named ———, who has since deceased, and has made an application to the court alleging you to be the legal representative of the said deceased ———, and desiring that you be made defendant in his stead: You are hereby summoned to attend (in person *or* by proctor, *or in either way*) in this court at ——— o'clock of the forenoon on the ——— day of ———, 18—, to defend the said action, and in default of your so appearing the said action will be heard and determined in your absence.

By order of court,

Signed ———,

The ——— day of ———, 18—. Secretary.

No. 72.—Form of Application for Permission to Withdraw from an Action.

(See Section 406.)

(*Title.*)

I, ———, plaintiff in the above-named action, hereby request the permission of the court to withdraw from the said action, with liberty to bring a fresh action in the same matter; on the ground (*state sufficient grounds for withdrawing*).

Signed ———,

The ——— day of ———, 18—. Plaintiff.

No. 73.—Form of Notice of Payment into Court.

(See Section 410.)

(*Title.*)

To (*plaintiff*).

Take notice that the defendant in the above-named action has paid into court ——— rupees, and that that sum is enough to satisfy the plaintiff's claim (*or* the plaintiff's claim for ———).

Signed ———,

The ——— day of ———, 18—. Party (*or* Proctor).

No. 74.—Form of Security for Defendant's Costs where Plaintiff resides out of Jurisdiction of the Court.

(See Section 416.)

(*Title.*)

Know all men by these presents that we, *A. B.*, of ———, and *C. D.*, of ———, are jointly and severally held and firmly bound to *E. F.* (*here insert name of secretary of court, or as the case is*) in the penal sum of ——— rupees (*the sum mentioned in the order*) to be paid to the said *E. F.* or his successors in the said office of (*as the case is*), for which payment to be well and faithfully made we bind ourselves and each of us, our and each of our heirs, executors, and administrators firmly by these presents, hereby renouncing, &c.

Dated this ——— day of ———, 18 —.

Whereas by an order of the said ——— court of ———, dated the ——— day of ———, 18 —, made in the above-named action, wherein ——— is plaintiff and ——— is defendant, it was, on the application of the said defendant (*or as the case may be*), ordered (*recite the mandatory part of the order*): and whereas the above-bounden *A. B.* and *C. D.* have, at the request of the said (*person required to give security*), agreed to enter into the above-written obligation subject to the condition hereinafter contained:

Now the condition of the above-written obligation is such, that if the above-bounden *A. B.* and *C. D.*, or either of them, their or either of their heirs, executors, or administrators, do and shall well and truly pay or cause to be paid to ———, the defendant in the said action, all such costs as the said court shall think fit to award to the said defendant in the said action, then the above-written obligation to be void, or else to remain in full force and virtue.

A. B.
C. D.

Signed by the above-bounden *A. B.* and *C. D.* in the presence of
X. Y., of ———.
Y. Z., of ———.

(Use the same form with alterations where defendant resides out of the jurisdiction.)

No. 75.—Formal Parts of an Affidavit in an Action.

(See Section 438.)

In the Supreme Court of the Island of Ceylon.

(*or*)

In the { District Court / Court of Requests } of *Colombo* (*or as the case may be*).

(*Title.*)

I, *A. B.* (*full name and description of deponent, and if a married woman, full name and description of her husband*), of (*place of residence*) (*and if a party, say so, and in what capacity*), make oath and say (*or if deponent is not a Christian*, solemnly, sincerely, and truly affirm and declare) as follows:

1. ———.
2. ———.

Sworn (*or* affirmed) (*if there are more than one deponent* sworn *or* affirmed by the deponent) *A. B.*, at ———, this ——— day of ———, 18 —.

Before me (*name and office of person administering the oath or affirmation*).

No. 76.—Form of Application for Permission to Sue as a Pauper.

(See Section 443.)

(*Head in the action and insert all the particulars required in plaints; then continue*—)

I, *A. B.*, of ———, plaintiff above-named, hereby apply to be allowed to sue as a pauper in the action above specified.

Annexed is a full and true schedule of all the movable and immovable property (other than my necessary wearing apparel and the subject-matter of the said action) belonging to me, with the estimated value thereof.

(Subscribe as in the case of a plaint.)

The Schedule.

(Annex affidavits of the applicant and of two headmen or other respectable inhabitants of the place where plaintiff resides, verifying his poverty and containing the other particulars required by section 444.)

No. 77.—Form of Certificate of Proctor Referee.

(See Section 447.)

(*Title.*)

I do hereby certify that I have, in accordance with the terms of the reference made to me in the matter above specified, made due inquiry of the plaintiff therein as to the grounds of his proceeding, and the evidence by which he proposes to support it, and have duly examined such documents and other evidence as he has produced to me.

I am of opinion that the said plaintiff has (*or* has not, *as the case may be*) a good cause of action against the defendant for, &c.

(Signed) *A. B.*,
The ——— day of ———, 18 —. Proctor, ——— Court.

No. 78.—Notice to Party permitted to Sue or Defend *in formâ pauperis* of Motion by the Opposite Party that he be dispaupered.

(See Section 454.)

(*Title.*)

To ———, of ——— (plaintiff *or* defendant in the above-named action).

Whereas you have been admitted to sue (*or* defend) as a pauper in the above-named action, and whereas the defendant (*or* plaintiff) has moved this court that you may be dispaupered, on the ground (*state ground, see section 454*): This is to give you notice that the said motion will be heard and determined in this court on the ——— day of ———, 18 —, at ——— o'clock of the forenoon.

Given, &c.

Signed ———,
Judge.

No. 79.—Form of Notice to Attorney-General or Public Officer of the Institution of an Action.

(See Section 461.)

To the Hon. the Attorney-General (*or the public officer concerned*).

Take notice that I, *A. B.*, of ———, am about to institute an action against you as representing the Crown (*or, in the case of a public officer*, in your official capacity as ———) for (*state the cause of action and the relief claimed*).

(Signed) *A. B.*

The ——— day of ———, 18 —.

(*Where the notice is issued by a proctor, alter the wording accordingly.*)

No. 80.—Form of Authority to Sue or Defend given by a Naval or Military Man on Service.

(See Section 503.)

I, *A. B.*, presently of ———, being a (*rank*) in Her Majesty's (*regiment or ship, as the case may be*), actually serving Government in such capacity, and unable to obtain leave for the purpose of (prosecuting *or* defending) a certain action brought (by *or* against) me (against *or* by) one ———, of ———, in the ——— court of ———, for (*state what for*), do hereby authorize *C. D.*, of ———, to (sue *or* defend) for me and on my behalf in the said action, and for that purpose to make every appearance and application, and do every act which I might if present make or do, or be required or authorized by law to make or do, therein.

(Signed) *A. B.*

The ——— day of ———, 18 —.

In the presence of

(Signed) *E. F.* (*the commanding officer, or if the party himself is the commanding officer, then the next subordinate in rank to him. Where the party is in staff employ, the witness must be the head of the office*).

Witnesses.

No. 81.—Form of Affidavit to be produced with Will.

(See Section 516.)

(Formal parts as in No. 75.)

1.—I knew and was well acquainted with *A. B.*, of ———, who died on the ——— day of ———, 18 —, at ———.

2.—The said *A. B.* duly executed his last will dated the ——— day of ———, 18 —.

3.—The said *A. B.* deposited his said will in my custody (*or if the case is so, state the circumstances under which the deponent found the will*).

4.—The said testator has left property within the jurisdiction of this (*or any other, as the case may be*) court of the nature and value shown in the schedule hereto annexed (*or* has left no property in Ceylon).

5.—I produce the said will.

(Formal conclusion.)

(The Schedule.)

No. 82.—Form of Application by way of Summary Procedure for Probate or for Administration with the Will annexed.

(See Sections 518–525.)

In the matter of the will of *A. B.*, deceased.

C. D., of ———, petitioner,

vs.

(*For respondent, name any person likely or competent to oppose the application.*)

(Formal parts as in No. 65.)

1.—*A. B.*, late of ———, died on the ——— day of ———, 18 —.

2.—The said *A. B.* duly executed his last will dated the ——— day of ———, 18 — (now deposited in this court, *or*, and the said will is appended hereto, *or as the case is—see section 524*).

3.—To the best of your petitioner's knowledge the heirs of the said *A. B.*, deceased, are :

4.—Full and true particulars of the property left by the deceased, so far as your petitioner has been able to ascertain the same, are contained in the schedule hereto annexed.

5.—Your petitioner claims as (executor, creditor, &c., *as the case is*).

Your petitioner therefore humbly prays for an order declaring the said will proved, and that he may be declared executor of the said will, and that probate thereof may be issued to him accordingly (*or where the case is so, for a grant of administration with copy of the will annexed, &c.*). (*If a limited grant is asked for, set out to that effect.*)

(Formal conclusion.)

(The Schedule.)

(*Support paragraphs 2 and 5 by affidavit or oral evidence. Where no respondent is named, state the reason to be that no opposition is apprehended, and support with an affidavit; and if the testator died out of Ceylon, state that the applicant has obtained an order appointing the court to have sole testamentary jurisdiction.*)

No. 83.—Form of Application for Administration where there is no Will.

(See Section 530.)

(Formal parts.)

(Proceed as in last form, substituting a statement that the will cannot be found, or that there is none, for paragraph 2.)

Your petitioner therefore humbly prays for an order declaring that he is entitled as such (creditor, *or as the case is*) to administer the estate of the said intestate, and directing that letters of administration of the said estate be granted to him accordingly. (*If a limited grant is asked for, set out to that effect.*)

(Formal conclusion.)

No. 84.—Form of Order *Nisi* declaring Will proved, &c.

(See Sections 526–529.)

(*Title.*)

This matter coming on for disposal before (*name and office of judge*), on the ——— day of ———, 18 — (in the presence of ——— on the part of the petitioner, and ——— on the part of the respondent), (and the affidavit of ———, dated ———, having been read, and the evidence of ——— taken), (and all parties heard):

It is ordered that the will of ———, deceased, dated ——— (and now deposited in this court, *or as the case is*), be and the same is hereby declared proved, unless (*the respondent or any person on whom the court directs the order to be served*) shall, on or before the ——— day of ———, show sufficient cause to the satisfaction of this court to the contrary.

It is further declared that the said (*petitioner*) is the executor named in the said will, and that he is entitled to have probate of the same issued to him accordingly (*or declare the petitioner's status where he is not executor, and state that he is entitled to administration with copy of the will annexed*), unless, &c.

Signed, &c. ———.

(Where there is no respondent, the order may be absolute in the first instance.)

(Where there is no will, this form can be adapted. In either case the order is to be served on the respondent or on any other person on whom the court directs service Where the grant is to be limited, say so, and how far.)

No. 85.—Form of Order making Absolute or Discharging the preceding Order.

(See Section 534.)

(*Title.*)

This matter coming on for final determination before ——— on ———, in the presence of ——— (and the affidavits of ——— having been read and the evidence of ——— taken) (and all parties heard):

It is ordered (that the order of this court made on the ——— day of ———, 18 —, be made absolute, and that probate of the will of ——— be issued to ——— (*or as the case may be*), *or* (that the order ——— be discharged, and the petition of ——— be and the same is hereby dismissed).

(And it appearing to this court that ——— (*respondent or objector*) has established his right thereto, it is further ordered that (*probate or administration, as the case may be*) be issued to the said ——— accordingly.

Signed, &c. ———.

(When the grant is to be limited, say so, and how far.)

No. 86.—Form of Probate.

(See Section 519.)

(*Title.*)

In the District Court of ———.

Be it known to all men that on the ——— day of ———, 18 —, the last will and testament of ———, deceased, a copy of which is hereunto annexed, was exhibited, read, and proved before this court, and administration of all the property and estate, rights and credits, of the deceased was and is hereby committed to (*name and description*) the executor in the said last will and testament named; the said ——— being first sworn (*or* affirmed) faithfully to execute the said will by paying the debts and legacies of the deceased testator as far as the property will extend and the law will bind, and also to exhibit into this court a true, full, and perfect inventory of the said property on or before the ——— day of ———, 18 —, and to file a true and just account of ——— executorship on or before the ——— day of ———, 18 —.

Given under my hand and the seal of the court this ——— day of ———, 18 —.

Signed ———,
District Judge.

(When probate is limited, insert the limitation.)

No. 87.—Form of Letters of Administration (with the Will annexed and otherwise).

(See Sections 519, 530, &c.)

In the District Court of ———.

To (*widow, widower, next of kin, secretary of the court, creditor, &c., as the case may be*).

Whereas ———, of ———, deceased, lately departed this life (leaving a will which has been duly proved in this court, a copy whereof is hereunto annexed; and whereas no executor is named in that will, *or* without leaving any will): You are therefore fully empowered and authorized by these presents to administer and faithfully dispose of the property and estate, rights and credits, of the said deceased, and to demand and recover whatever debts may belong to ——— estate, and to pay whatever debts the said deceased did owe (and also the legacies contained in the said will), so far as such property and estate, rights and credits, shall extend, you having been already sworn (*or* affirmed) well and faithfully to administer the same and to render a true and perfect inventory of all the said property and estate, rights and credits, to this court on or before the ——— day of ———, 18 —, next, and also a true and just account of your administration thereof on or before the ——— day of ———, 18 —. And you are therefore by these presents deputed and constituted administrator (with a copy of the will annexed) of all the property and estate, rights and credits, of the said deceased. (You are nevertheless hereby prohibited from selling any immovable property of the estate unless you shall be specially authorized by the court so to do.)

Signed, &c. ———.

No. 88.—Form of Oath by Executor or Administrator referred to in the two preceding forms.

You swear (*or the form of affirmation*) that you believe the writing now produced to you, bearing date ———, and marked ———, to be the last will and testament of deceased. (That you are the executor named therein, *where the case is so.*) That you will faithfully execute the said will (*or* that you will administer and faithfully dispose of the property and estate, rights and credits, of ———, deceased) by paying the debts (and legacies) of the deceased as far as the property will extend and the law bind, and by demanding and recovering whatever debts may belong to ——— estate. That you will exhibit into this court a true, full, and perfect inventory of all the property, movable and immovable, and all the rights and credits of the deceased on or before the ——— day of ———, 18 —, and that you will file a true account of your executorship (*or* administration) on or before the ——— day of ———, 18 —.

Sworn (*or* affirmed), &c.

No. 89.—Form of Affidavit where Deceased is Intestate.

(See Section 541.)

(Formal parts as in No. 75.)

1.—I am (*widow, next of kin, &c.*) of ———, late of ———, deceased, and knew and was well acquainted with the said ——— during his lifetime.

2.—The said ——— died on the ——— day of ———, 18 —, at ———, without having made a will, and leaving property within the jurisdiction of ——— court of the nature and value shown in the schedule hereto annexed.

(Formal conclusion.) *Schedule.*

No. 90.—Form of Security Bond to be given by Executor or Administrator when required.

(See Sections 521, 538, 541.)

In the District Court of ———.

Know all men by these presents that we (executor *or* administrator), and ——— and ——— (*sureties*), are held and firmly bound unto ———, Secretary of the District Court of ——— (*or* to the Secretary of the District Court of ——— , for the time being), the said ——— in the sum of ——— rupees, and the said ——— and ——— in the sum of ——— rupees each, to be paid to the said (Secretary *or* Secretary for the time being), for which payment well and truly to be made we and each of us do hereby bind ourselves, our heirs, executors, and administrators firmly by these presents, hereby renouncing ———.

Whereas by order of the said court of the ——— day of ———, 18 —, it is ordered that (probate of the will *or* letters of administration of the property and estate of ——— deceased) be granted to the said (executor *or* administrator) on his giving security for the due (execution *or* administration) thereof : And whereas the estate of the said deceased has been appraised and valued at the sum of ——— rupees :

Now the condition of this obligation is such, that if the above-bounden (executor *or* administrator) do render into this court a true and perfect inventory of all the property and estate, rights and credits, of the said deceased, which have or shall come to the possession or knowledge of the said ———, or of any other person for him, on or before the ——— day of ———, 18 —, and shall well and truly administer the same ; that is to say, shall pay all and singular the debts

of the said deceased which (he) did owe at (his) decease fairly and justly according to their respective degrees, or in equal proportion if the estate should prove insufficient to satisfy all the debts in full (and shall then pay the legacies contained in the said will annexed to the said letters of administration) so far as the said property will extend and the law charge (him), and further shall render to this court a true and just account of (his) said administration on or before the ——— day of ———, 18 —, and shall deliver and pay over the rest and residue of the said property and estate, rights and credits, which shall be found remaining upon the said administration, to the person or persons lawfully entitled to the same: Then this obligation to be void and of none effect, otherwise to remain in full force.

(*Dated and signed by all the obligors.*)

No. 91.—Form of Letters *ad bona colligenda.*

(See Section 546.)

In the District Court of ———.

To ——— and ———.

Whereas it has been verified to this court that ———, late of ———, died leaving property within the jurisdiction of this court: You and each of you are hereby empowered and authorized to take, collect, demand, and receive all and every the said property, and the rents, issues, and profits thereof, and safely to keep the same until administration thereof be granted in due form of law to such person or persons as shall appear entitled to the same, or until you receive further orders from this court in the premises.

By order of court,

———

The ——— day of ———, 18 —. Secretary.

No. 92.—Form of Verification of Inventory and Valuation.

(See Section 538.)

I, *A. B.*, of ———, executor of the last will of ———, deceased (*or* administrator of the estate, *&c., if so*), make oath and say (*or* solemnly, sincerely, and truly affirm and declare) as follows:

1.—To the best of my knowledge, information, and belief, the above-written inventory contains a full, true, and correct account of all the property, movable and immovable, and rights and credits of the said ———, deceased, so far as I have been able with due diligence to ascertain the same.

2.—I have made a careful estimate and valuation of all the property, the particulars of which are set forth and contained in the said inventory, and to the best of my judgment and belief the several sums respectively set opposite to the several items in the said inventory fully and fairly represent the present values of the items to which they are so respectively set opposite.

No. 93.—Form of *Caveat.*

(See Section 535.)

In the District Court of ———.

Let nothing be done in the estate and effects of ———, late of ———, deceased, who died on the ——— day of ———, 18 —, at ———, unknown to (Mr. ———, of ———, Proctor for parties having interest, *or as the case may be*).

———

(*Signed by the Party, and dated.*)

No. 94.—Form of Certificate of Curatorship and Guardianship.

(See Chapter XL.)

In the District Court of ————.

In the matter of the estate of *A. B.*, a minor.

1.—Whereas this court has, under the provisions of chapter XL. of the Code of Civil Procedure, appointed you ————, of ————, to be curator of the estate of ————, a minor, until the said ———— shall have attained the age of twenty-one years: You are hereby entrusted with the charge of the property of the said ———— ; you may exercise the same powers in the management of the estate as might have been exercised by the said ———— if not a minor ; and you may collect and pay all just claims, debts, and liabilities due to or by the estate of the said ————.

(2.—You are authorized to retain from the estate of the said ————, ———— rupees a month assigned by this court as a suitable remuneration for the trouble and responsibility connected with the discharge of your trust.)

3.—You are to keep regular accounts of all moneys received or disbursed by you on account of the estate, and to preserve all vouchers and other documents necessary to prove the correctness of such accounts.

4.—In the event of this certificate being recalled under the provisions of section 591 of the said Code, you will be required to make over the property in your hands to your duly appointed successor, and to account to such your successor for all sums of money or other property received or disbursed by you.

5.—In the event of your desiring to resign your trust, this court will give you a discharge therefrom on your accounting to your duly appointed successor for all sums of money or other property received or disbursed by you, and on your making over the property in your hands to such your successor.

(6.—You are also hereby appointed guardian of the person of the said ————, and are authorized to retain from the estate of the said ———— the sum of ———— rupees a month assigned by this court as a suitable remuneration for the trouble and responsibility connected with the discharge of your trust.)

7.—You are bound to provide for the education of the said ———— in a suitable manner under the general superintendence and control of this court.

8.—You are authorized to expend the sum of ———— rupees a month fixed by this court as an allowance for the maintenance and education of the said ————. (*Here may be inserted, if the court is satisfied of its expediency, a direction to raise the allowance out of corpus.*)

9.—You may, for any sufficient cause, be removed from your trust by this court.

Signed ————,
District Judge.

(When some person other than the curator is appointed guardian of the person, the above form must be modified. The heading will be the same ; the recital will be that the appointee is entrusted with the charge of the person and maintenance (and education) of the minor ; paragraph 2 of the last form must be adapted thus : "You are authorized to receive from the curator," &c. ; paragraphs 7, 8, and 9 may be used as they stand. In this event the preceding form may be easily adapted.)

No. 95.—Form of Decree for Separation *à mensâ et thoro.*

(See Chapter XLII.)

(*Begin as in an ordinary decree, see No. 41, and continue*—)

And it appearing to the court that the defendant has been guilty of (*state act justifying separation*) so as to render it unsafe and improper under existing circumstances for the plaintiff to cohabit with him, or be under his dominion and control: It is thereupon ordered and decreed that the plaintiff and defendant be separated from bed and board for ever: Provided, however, that the parties may at any time hereafter, by their joint and mutually free and voluntary act, apply to this court for leave to be discharged from this decretal order. And it is hereby declared that it will be criminal and an act void in law for either of them, during the life of the other, to contract matrimony with any other person. (And it is further decreed that the plaintiff, according to the prayer of plaint, be entitled to, and charged with the custody, care, and education of (*mention the children*) in the pleadings mentioned: Provided always that this order for the custody, care, and education of the said infant (infants) may at any time hereafter be modified, varied, or annulled upon sufficient cause shown.) (And it is further decreed that the defendant do pay to the plaintiff (*set out amount of alimony decreed, and manner of payment, &c.*) to be applied towards the maintenance of the plaintiff and her said ———, and that this allowance is to continue until further order, and be subject to variation as future circumstances may require.) And it is further ordered (*state order as to costs*).

No. 96.—Form of Decree of Nullity of Marriage.

(See Section 607.)

(*Proceed as in last form, and continue*—)

And it appearing to this court that on the ——— day of ———, 18 —, a pretended marriage was had and solemnized between the said *A. B. C.* and *E. F. G.* otherwise called *E. F. C.*, but that at the time of the solemnization of the said pretended marriage (she, the said *E. F. G.*, otherwise called *E. F. C.*, was insane and incapable of entering into such a contract, *or state other grounds making the marriage a nullity*):

It is thereupon pronounced, declared, and decreed that the said pretended marriage so had and solemnized between the said (*names as before*) was and is wholly and absolutely null and void to all intents and purposes whatsoever: And that the said *A. B. C.* was, and is, free from all bond of marriage with the said *E. F. G.*, otherwise called *E. F. C.* (*State order as to costs.*)

Signature, &c. ———.

No. 97.—Form of Decree for Divorce *a vinculo matrimonii.*

(See Chapter XLII.)

Use the necessary parts of the foregoing forms. The decree will be: That the bonds of matrimony heretofore entered into between the said ——— and ——— be and are hereby set aside, dissolved, and annulled, and that the woman may resume her maiden name (and be restored to the rights, &c., of a *femme sole*).

The form given under No. 95 may be adapted for the orders as to custody, &c., of children, alimony, costs, &c.

No. 98.—Form of Mandate of Sequestration.

(See Section 645.)

(*Adapt the form given under Nos. 38 and 104.*)

No. 99.—Form of Notice of Sequestration.

(See Section 646.)

In the District Court of ———.

No. ——. *A. B.*, Plaintiff, *vs. C. D.*, Defendant.

Notice is hereby given that the above action was on the ——— day of ——— instituted in this court, and is now pending therein, for the recovery of the sum of ——— rupees, being value of goods sold and delivered by plaintiff to defendant, with legal interest thereon from commencement of action till payment in full and costs.

That summons was accordingly issued against the defendant at ——— to appear and answer to the said claim so made in the said action, to which summons the Fiscal of the said district did on the ——— day of ——— make his report stating that the defendant is not to be found within the district.

Whereupon the said court did on the ——— day of ——— aforesaid direct a certain writ of sequestration to issue commanding the Fiscal of the said district to sequester and seize the houses, lands, goods, moneys, securities for moneys, and debts of the defendant to the value of ——— rupees, wheresoever or in whose custody soever the same may be within this district, to retain and secure the same until the said defendant shall appear and abide the order of this court, or until the said Fiscal shall receive further directions therein, which said writ was accordingly issued, and the said Fiscal did on the ——— day of ——— aforesaid make his return to the writ of sequestration, stating that he has seized and sequestered (*mention property by particulars*).

Notice is hereby given that if the said defendant do not appear in the said action and abide the order of this court, the court will on ———, the ——— day of ———, proceed with the first proclamation, and on ———, the ——— day of ——— next, proceed with the second proclamation, and on the last-mentioned day proceed to hear and decide the case *ex parte*.

N.B.—The Fiscal of the district of ——— is hereby directed to affix one set of those notices at the defendant's last place of abode, one set on the wall of the ——— Kachchéri, and one set on the wall of the District Court, and to make his return on or before the ——— day of ———, 18 —.

By order of court,

E. F.,

Secretary.

No. 100.—Form of Warrant of Arrest before Judgment.

(See Section 650.)

(*Title.*)

To the Fiscal of ———.

Arrest and seize ———, the above-named defendant, and keep him safely, so that you have his body before this court forthwith to answer the above-named plaintiff in an action to recover (*as the case may be*), whereof the said plaintiff has filed his plaint in this court, unless and until the said defendant shall give you good and sufficient security to the amount of ——— rupees (*or shall deposit, &c., see section 650*) to appear and answer the said plaintiff's claim, and to abide by and perform the judgment of this court, or to surrender himself or be surrendered to be charged in execution for the same; and on his giving such security you are hereby authorized to discharge the said defendant. And have here this mandate on the return day thereof.

Signed ———.

Memorandum.—This warrant is to be executed within one calendar month from the date thereof, including the day of such date, and not afterwards.

No. 101.—Form of Security, &c., to be given by Defendant arrested before Judgment.

(See Section 651.)

(*Title.*)

Know all men by these presents that we ——— and ———, &c. (*making the Fiscal the obligee, and proceeding according to the forms Nos. 74 and 90*).

The condition, &c., is, that if the above-bounden ——— do appear before the ——— court of ———, on the ——— day of ———, 18 —, to appear and answer and abide by and perform the judgment, &c. (*describe claim*), then this obligation, &c.

No. 102.—Form of Bail on Appearance.

(See Section 651.)

Bond, as in last preceding, making the secretary of the court obligee. The condition is to appear and answer, &c., in terms of section 651.

No. 103.—Form of Warrant of Commitment.

(See Section 651.)

(*Title.*)

To the Fiscal of ———.

Receive into your custody the body of ———, taken under a warrant of arrest at the suit of ———, and keep him safely until he give good and sufficient security in the sum of ——— rupees to abide by and perform the judgment of this court in the premises, and pay all such sum or sums of money as shall be decreed, or surrender himself or be surrendered to be charged in execution for the same.

Signed, &c. ———.

No. 104.—Form of Mandate of Sequestration.

(See Section 653.)

(*Title.*)

Whereas it appears that ——— is fraudulently alienating his property, &c. (*set out the necessary averments*), and the plaintiff above-named has verified his demand to the satisfaction of this court; you are therefore commanded (*proceed as in No. 38, with the necessary modifications*).

No. 105.—Form of Security to be given by Plaintiff.

(See Section 654.)

Bond in ordinary form, the Secretary being obligee ; the condition is to pay all sums of money awarded by the court to defendant as costs, damages, or otherwise sustained by reason of arrest or sequestration.

No. 106.—Form of Authority to Proctors to apply for Reference to Arbitration.

(See Section 676.)

(*Title.*)

Whereas we ——— (plaintiff and defendant) are desirous that (*here state the particular matter sought to be referred*) in the action above specified should be referred to the final decision of the arbitrator (*or* arbitrators) herein-below named, viz. (*names*).

Therefore we, the said ——— and ———, do hereby specially authorize our proctors, that is to say, ——— on the part of the said plaintiff, and ——— on the part of the said defendant, to apply to the said court for an order of reference accordingly.

Witness our hands this, &c.

Witnesses.

———, Plaintiff.

———, Defendant.

No. 107.—Form of Order of Court referring matter to Arbitration.

(See Section 677.)

(*Title.*)

Upon (*&c.*), It is ordered, by and with the consent of all parties, that (*state the matter*) in difference between them in this action (including all dealings and transactions between all parties) be referred to the final determination of ——— and ———, who are to make their award in writing and submit the same to this court together with all proceedings, depositions, and exhibits in this action within ——— from the date hereof. And it is further ordered, by and with the like consent, that if the said arbitrators are unable to agree upon any award in the premises, within the time so fixed for the making of their award (*state whether any particular umpire is to be appointed, or that the arbitrators are empowered to appoint an umpire, or as the case may be; and in case an umpire is appointed, limit the time for his award*). And it is further ordered, by and with, &c., that the said arbitrators (*or* umpire) shall be at liberty to examine the parties and their witnesses upon oath or affirmation which they (*or* he) are (is) empowered to administer, and shall have all such powers or authorities as are vested in arbitrators (and umpires) under the Code of Civil Procedure, including therein power to call for all books of account they (*or* he) may consider necessary. And it is further, &c., that the costs of this action, together with the costs of this reference up to and including the award of the said arbitrators (*or* umpire), and the enforcement thereof, do abide the result of the finding of the said arbitrators (*or* umpire). And it is further, &c., that the said arbitrators (*or* umpire) be at liberty to appoint a competent accountant to assist them (*or* him) in the investigation of the several matters so referred as aforesaid, and that the remuneration of such accountant and other charges attending the same be in the discretion of the said arbitrators (*or* umpire).

(*Signed as an order.*)

No. 108.—Form of Order of Reference on the above.

(See Section 677.)

(*Title.*)

To ——— and ———.

Whereas the above-named plaintiff and defendant have agreed to refer all matters in difference between them (*or state the particular matter*) in the above-named action to your arbitration and award: You are hereby appointed arbitrators accordingly to determine all the said matters in difference between the parties, and with power to determine which party shall pay the costs, &c. (*Direct the delivery of the award as in preceding form; give power to appoint an umpire in cases of difference, specifying particular umpire if necessary; give power to appoint an accountant as in preceding form, and continue:*) Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this court on your application, and you are empowered to administer to such witnesses oath or affirmation.

Given, &c.

———
Judge.

No. 109.—Form of Notice to Arbitrators to appoint an Umpire.

(See Section 680.)

(*Title.*)

To (*arbitrators*).

Whereas by an order of court made in the above-named action on the ——— day of ———, 18—, you were appointed arbitrators for the decision of the matters therewith referred to you, and were by the terms of the said order of reference empowered to appoint an umpire in the event of your failing to agree upon an award within the time therein limited, and such time has elapsed and no umpire has yet been appointed by you:

This is to give notice that I hereby require you to appoint an umpire forthwith.

Signed and dated ———,
Party Plaintiff (*or* Defendant).

No. 110.—Form of Notice of Filing of Award.

(See Section 685.)

(*Title.*)

To (*parties*).

This is to give you notice that the arbitrators (*or* umpire) appointed in the above action have (has) this day filed their (his) award in this court.

Given, &c.

———
Judge.

No. 111.—Form of Citation.

(See Section 712.)

(*Title.*)

To ———.

Whereas one *A. B.* (executor of the last will of ———, deceased, *or* administrator of the estate and effects of ———, deceased), has presented a petition to this court praying that you may be cited to attend an inquiry whether (*set out shortly the substance of the application*); and whereas the said *A. B.* has satisfied this court that there are reasonable grounds for such inquiry: You are hereby cited and required personally to be and appear before this court on the ——— day of ———, 18—, at ——— o'clock of the forenoon, then and there to answer (*set out what the subject of the inquiry is*).

Signed, &c. ———,
District Judge.

No. 112.—Form of Order to be annexed to, or endorsed on, the preceding.

(See Section 713.)

(*Title.*)

On reading and filing the petition of *A. B.*, dated ——— (and on reading the affidavit, &c., and hearing the evidence, &c.): It is ordered that a citation returnable on the ——— day of ———, 18—, at ——— o'clock of the forenoon, do issue to ———, requiring him to (*set out as in last form*).

Signed, &c. ———,
District Judge.

No. 113.—Form of Affidavit of Failure to return Inventory.

(See Section 718.)

(Formal part as in No. 75.)

1.—(*Allege residence and interest in estate.*)

2.—That (*probate was granted of the will, or letters of administration issued of the estate and effects*) of ———, deceased, by a decree of this court dated, &c., to one ———, of ———.

3.—That more than ——— has elapsed since the said appointment, and the said ——— has not returned any inventory of the property and effects of the said ——— (*or* any sufficient inventory, *&c., specifying the defects*).

(Formal conclusion.)

No. 114.—Form of Petition for Payment of Debt.

(See Section 720.)

(*Title.*)

The petition of *A. B.* showeth as follows:

1.—Your petitioner resides at ——— in ———, and is a creditor of the estate of ———, deceased, late of ——— (probate of whose will was, *or* letters of administration to whose estate and effects were) duly issued to one ———, of ———, by a decree of this court dated the ——— day of ———, 18—, and more than twelve months have elapsed since such (grant *or* letters).

2.—That the said ——— has filed an inventory of the property and effects of the said ———.

3.—(*Allege claims, as, e.g.:*) On the ——— day of ———, 18 —, your petitioner, in an action brought by him in the ——— court of ——— against the said ——— as (executor *or* administrator) of the said ———, upon a debt then justly due to him from the estate of the said deceased, recovered a judgment duly given by the said court against the said ——— as such (executor, *&c.*) for the sum of ——— rupees. And no part of the same has been paid (except ———).

4.—Your petitioner is informed and believes that the said ——— has sufficient assets in hand applicable to the payment of your petitioner's claim (*or* to pay one ——— th thereof), and that the same can be so applied without injuriously affecting the rights of others entitled to priority or equality of payment with your petitioner.

5.—Your petitioner has applied to the said ——— for payment of his said claim, and the same has not been paid.

Wherefore, &c., that a decree be made requiring the said ——— to (render an account of his proceedings and) pay the said claim, and that the said ——— be cited to show cause why he should not pay the same.

(Conclusion.)

———

No. 115.—Form where Applicant is a Legatee.

(See Section 720.)

Proceed as in last preceding form, substituting in paragraph 1: "Legatee named in the will of ———" for "creditor of the estate of ———"; and add "and by the said will a legacy of ——— rupees was bequeathed to your petitioner." Omit paragraph 3. In paragraphs 4 and 5 for "claim" substitute "legacy (*or* distributive share)"; and in the prayer make the corresponding alterations.

———

No. 116.—Form of Citation on preceding Applications.

(See Section 721.)

(*Title as in No. 111.*)

Proceed as in No. 111. The citation is "to show cause why a decree should not be made directing you as (executor *or* administrator, *&c.*) of ———, deceased, to pay the claim of ——— against the estate of the said deceased in the sum of rupees ———."

———

No. 117.—Form of Decree on the preceding Citation.

(See Section 721.)

(*Title.*)

A. B., of ———, having presented to this court a petition dated the ——— day of ———, 18 —, asking that a decree be made herein directing the said ——— (executor, *&c.*) to pay (*state claim; and if petition was by a creditor, add statement of issue and return of service of citation*). And it having been proved to the satisfaction of this court by the said petition and the affidavit of, &c., that the assets of the said deceased in the hand of the said ——— exceed the debt (*and where the petitioner is a creditor:* And that the petition may be granted without injuriously affecting the rights of others entitled to priority or equality of payment or satisfaction): It is decreed that the said ——— the (executor, *&c.*) of the said ———, deceased, pay to the said *A. B.* (*the full*) amount of his said claim, to wit, ——— rupees, with interest thereon at ——— per cent. per annum from the ——— day of ———, 18 —, the whole amounting to rupees ———.

Signed ———,
District Judge.

No. 118.—Form of Account to be filed by Executor or Administrator.

(See Section 723 *et seq.*)

(*Title.*)

(*The only difference between a voluntary account and an account ordered by the court will be that the former will be headed* "In the matter of the voluntary account of ———, executor (*or* administrator, *&c.*) of ———, deceased," *and the latter* "In the matter of the judicial settlement of the account of," &c.)

To the District Court of ———.

I, *A. B.*, of ———, do hereby render the following account of my proceedings as executor of the will (*or* administrator, *&c.*) of ———, late of ———, deceased (*if not brought down to date, add* "to and including the ——— day of ——— last").

On the ——— day of ———, 18 — (*recite grant of probate or administration*), were issued to me.

I subsequently caused an inventory of the property and estate of the deceased to be filed in this court, which property amounts as therein set forth, by appraisement, to ——— rupees.

Schedule A hereto annexed contains (*here enumerate the schedules. As many schedules and in such order and relation as will best exhibit clearly all transactions had, whatever they may be, should be annexed: such as statement of property sold, with prices and manner of sale; statement of debts collected and not collected; property unsold and perished by loss, &c.; moneys paid for funeral and other expenses; and in referring to them show that things done have been properly done, and give the reasons why certain things have not been done*).

On or about the ——— day of ———, 18 —, I caused a notice for claimants to present their claims against the said estate (*show manner of notice and publication*).

Schedule ——— contains a statement of all the claims of creditors presented and allowed, or disputed by me (*&c.*).

(*Go on to show that there are schedules containing statements of payments to legatees, names of persons entitled as widow, next of kin, legatees, &c., and finally:*)

Schedule ——— hereto annexed contains a statement of all other facts affecting my administration of the said estate, and my rights and those of others interested therein.

I charge myself as follows:	Rs.
With amount of inventory	
With amount of increase as shown by Schedule A ...	
I credit myself as follows:	
With amount of loss on sales as shown by Schedule B	
With debts not collected as shown by ——— ...	

Leaving a balance of ——— rupees, to be distributed to those entitled thereto, subject to the deduction of the amount of my compensation and the expenses of this accounting. The said schedules, which are severally signed by me, are part of this account.

Signed, &c. ———.

(Schedules in order, each signed.)

(Affidavit as in next form.)

No. 119.—Form of Affidavit of Accounting Party.

(See Section 733.)

(*Title and formal parts* "In the matter," &c., *as in last form.*)

I, *A. B.* (executor, *or as may be*), of ———, deceased, being (*&c.*), say that the charge made in the foregoing account of proceedings and schedules annexed, for moneys paid by me to creditors, legatees, and

next of kin, and for necessary expenses, are correct; that I have been charged therein all the interest for moneys received by me and embraced in the said account, for which I am legally accountable; that the moneys stated in the said account as collected were all that were collectible according to the best of my knowledge, information, and belief, on the debts stated in such account at the time of this settlement thereof; that the allowances in the said account for the decrease in the value of any assets and the charges therein for the increase in such value are correctly made; and that I do not know of any error in the said account or anything omitted therefrom which may in any wise prejudice the rights of any party interested in the said estate. And I further say that the sums under twenty rupees charged in the said account, for which no vouchers or other evidences of payment are produced, or for which I may not be able to produce vouchers or other evidences of payment, have actually been paid and disbursed by me as charged, and that the said account contains to the best of my knowledge and belief a full and true statement of all my receipts and disbursements on account of the estate of the said deceased, and of all moneys and other property belonging to the said estate which have come into my hands, or which have been received by any other person by my order, or authority for my use, and that I do not know of any error or omission in the account to the prejudice of any creditor of, or person interested in the estate of, the said deceased.

(Formal conclusion.)

No. 120.—Petition for Judicial Settlement of Executor's Account.

(See Section 726.)

(*Adapt form No. 114, adding:*)

That ——— has elapsed since issue of (*probate*, *&c.*), but the said (executor, &c.) has not rendered any account of his proceedings as such.

No. 121.—Form of Order on Executor, &c., to render Account.

(See Section 727.)

(*Title of the action*, "and in the matter of the judicial settlement of the account ———," *&c.*)

A citation having been heretofore issued on the petition of ———, requiring ——— to show cause before this court on ——— at ———, &c., why he should not render his account as (executor, *&c.*) of ———, late of ———, deceased, and the said citation having been returned on that day together with proof of due service on the said ———, and the said ——— having failed to appear (*or* to show cause to the contrary and to present a petition that his account be judicially settled): It is ordered that the said ——— render an account of his proceedings as (*&c.*) to this court on the (*&c.*, at *&c.*) and file the same herein on or before that time; and that the said ——— personally be and appear before this court at that time and attend from time to time for the purpose of the said account as the court may order; and that in case of disobedience to this order an attachment may issue against him.

Signed, &c. ———.
District Judge.

No. 122.—Form of Executor's Petition for a Judicial Settlement.

(See Section 729.)

(*Title.*)

To the District Court, &c. (*formal heading*).

1.—More than one year since (*recite issue of probate or administration to petitioner*).

2.—The persons interested in the estate of the said deceased as creditors, wife (husband), next of kin (legatees), or otherwise, and their places of residence, to the best of the knowledge, information, and belief of your petitioner, are as follows; to wit: (*Set out. If necessary, negative the existence of any more; and where an address cannot be ascertained, show that it is so*).

Wherefore (*&c.*) that his account of his proceedings as such ——— may be judicially settled, and that the creditors or persons claiming to be creditors of the deceased, and the said wife (husband), next of kin (legatees) (and the said ——— as executor (*or otherwise*) of the said ———) (and your petitioner's co-executor, *C. D.*) be cited to attend such settlement.

(Formal conclusion.)

Signed, &c. ———

No. 123.—Form of Citation on such Application.

(See Section 729.)

(*Adapt No. 111. The citation is:* "to attend the final judicial settlement of the account of the proceedings of ——— as ———, &c., of the said deceased ———.")

No. 124.—Form of Answer by Party contesting an Account.

(See Section 730.)

(*Title as in form of account.*)

A. B., a creditor (*or* a legatee *or otherwise*) of the said ———, deceased, contesting the ——— account filed by ———, executor (*or, as the case may be*) of, &c., alleges that the said account is erroneous in the following particulars:

(*Here set forth objections, e.g., thus:*)

1.—That the item of ——— rupees for ——— is extravagant, &c.

2.—That the item of ——— rupees is without vouchers, &c. (*as the case may be*).

3.—That the said account should be surcharged by the following items:

(1) That it does not include (*and so on*).

4.—The item of ——— rupees is erroneous (*and so on with regard to all the items to which objection is taken*).

Lastly.—Your contestant further reserves the right and privilege of making the foregoing objections more definite and certain, and of interposing other and further objections to the said account, or to any of the acts of the said (executor, &c.).

(*Signature and address of contestant.*)

The ——— day of ———, 18—.

No. 125.—Form of Decree on Final Settlement of Account.

(See Section 740.)

(*Title, &c.*, and in the matter, &c.)

A. B. (executor *or* administrator, *&c.*), of ———, late of ———, deceased, having heretofore made application to this court for a judicial settlement of his final account as such ——— (*or, where the application was made by some one else, recite accordingly*), and a citation having been thereupon issued (*recite terms of citation*), and the said citation having been returned and filed with proof of the due service thereof on (*names*), and the said (executor) having appeared on the return day of the said citation, and the said (executor) having rendered his account under oath (*or* affirmation) before this court; and the said account having been filed together with the vouchers in support thereof, and no objection having been made to the said account (*or recite fact of objections*), and the said matter having been duly adjourned to this day, this court, after having examined the said account and vouchers, now finds the state and condition of the said account to be as stated and set forth in the following summary statement thereof made by the said court, as finally settled and adjusted by the court to be recorded with and taken to be a part of the decree in this matter, to wit:

A summary statement of the account of *A. B.* (executor, &c., *set out*) made by this court as finally and judicially settled and allowed.

	Rs.
The said (executor) is chargeable as follows:	
With amount of inventory	
With amount of increase as per Schedule A ...	———
He is credited as follows:	———
With amount of loss on sales as per Schedule B	
&c. &c. &c. ...	———
Leaving a balance of	———
The said balance consists of:	
———	———
———	———

And it appearing that the said (executor) has fully accounted for all the moneys and property of the said deceased which have come into his hands as such ———, and his final account having been adjusted by the said court and a summary settlement of the same having been made as above recorded: It is hereby ordered and decreed:

That the said account be and the same is hereby finally and judicially settled and allowed as filed and adjusted.

And it is further ordered and decreed that out of the balance so found, as above, remaining in the hands of the said (executor), he retain the sum of ——— rupees for the compensation to which he is entitled on this account; and that he pay into this court the sum of ——— rupees for the expenses of this accounting.

(*Other recitals and directions will have to be inserted according to circumstances.*)

And it appearing that after retaining the amounts above specified a balance of——— rupees will remain in the hands of the said (executor): It is therefore further ordered and decreed that the said (*&c.*) distribute the said remaining balance of ——— rupees as follows, viz.: That he pay (*&c., setting out how the balance is to be distributed*).

And it is further ordered and decreed that the said (*&c.*) pay the remainder of the said balance, being the sum of ——— rupees, to ——— (the residuary legatee named in the said will).

(Formal conclusion.)

No. 126.—Form of Notice to Respondent that Appellant will tender Security in Appeal, &c.

(See Section 756.)

(*Head with the title of the action in the lower court.*)

To (*respondent*).

Take notice that the petition of appeal presented by me in the above-named action on the ——— day of ———, 18 —, against the (order *or* decree) of the ——— court of ———, dated the ——— day of ———, 18 —, in the said action, having been received by the said court, counsel on my behalf will, on the ——— day of ———, 18 —, at ——— o'clock of the forenoon, or so soon thereafter as, &c. (being within ——— days from the day of the date of such (order), move to tender security by (*mention how*) for any costs which may be incurred by you in appeal in the premises, and will on the said day deposit in court a sufficient sum of money to cover the expenses of serving notice of appeal on you.

Signed ———,
Party Appellant.

The ——— day of ———, 18 —.

No. 127.—Form of Notice of Appeal to be served on Respondent or his Proctor.

(See Section 756.)

(*Head as in last form.*)

To (*party respondent or his proctor*).

You are required to take notice that the petition of appeal of the ——— from the (order) of this court dated, &c., in the above-named action having been received, and the security tendered by him for your costs of appeal in the said matter having been accepted, and a sufficient sum of money to cover the expenses of serving this notice on you having been deposited in this court, the petition of appeal of the said ———, copy of which is hereto annexed, will be forthwith forwarded to the Supreme Court for hearing in due course.

By order of court,

The ——— day of ———, 18 —. *Signed* ———.

No. 128.—Form of Secretary's Certificate in Appeal.

(See Section 756.)

Case instituted.	Order made.	Decision in whose favour	Petition of Appeal filed.	Security given on	Whether Plaintiff or Defendant appeared *in forma pauperis*

I, *A. B.* (secretary, &c.), do hereby certify that the above statement is correct.

(*Signed and dated.*)

No. 129.—Form of Security Bond in Appeal.

(See Section 757.)

(*Follow the ordinary form of bond, making the secretary, &c., obligee, and making the condition:* "to pay all costs which shall be incurred and taxed in prosecution of the said appeal if the said appellant shall be decreed to pay the same.")

No. 130.—Form of Security Bond where Execution is stayed.

(See Section 761.)

(*Follow the last form, making this condition:* "That if the above-bounden, &c., shall duly prosecute the appeal which he has instituted against, &c., and shall well and truly perform and abide by the judgment which shall ultimately be pronounced by the Supreme Court on the said appeal, and shall pay any sum or sums of money which the said Supreme Court shall decree to be paid by the said appellant, and shall pay all costs, as well those incurred and taxed in the said ——— court as those which shall," *&c., as in last form.*)

No. 131.—Form of Security in Appeal to the Privy Council.

(See Section 783.)

(*Adapt the last form.*)

No. 132.—Form of Summons to Person Accused of Contempt of Court.

(See Section 793.)

In the ——— court of ———.

Whereas your attendance is necessary to answer to a charge of contempt committed against the authority of this court in that you (having duly attended the same in obedience to a summons requiring you to testify on behalf of one ——— in (*title of case, &c.*), departed from the said court in contravention of the provisions of section 136 of the Code of Civil Procedure (*or as the case may be*) as appears from (*state how*): You are hereby required to appear in person before this court on the ——— day of ———, 18 —, at ——— o'clock of the forenoon, to answer to the said charge.

Signed and dated ———,
Judge.

No. 133.—Form of Warrant in the like case.

(See Section 794.)

(*Heading as in last form.*)

To ———, Fiscal, *&c.*

Whereas ———, of ———, has been summoned to attend in person before this court on the ——— day of ———, 18 —, at ——— o'clock of the forenoon, to answer to a charge of contempt of the authority of this court, and this court has reason to believe that the attendance of the said ——— cannot be secured to answer such charge on the said day without the issue of a warrant in that behalf: You are hereby directed to arrest the said ——— and him safely keep in custody, and to produce him before this court on the said ——— day of ———, 18—, at ——— o'clock of the forenoon accordingly.

(*Endorse on this warrant:* If the said ——— shall at any time after such his arrest give you good and sufficient security either by his own bond or that of some other person in the sum of ——— rupees to attend before this court on the said ——— day of ———, and to continue so to attend until otherwise directed by the court, he may be released.)

No. 134.—Form of Conviction for Contempt.

(See Section 797.)

In the ——— court, *&c.*

A. B. being this day before this court on a charge of having committed contempt of the authority thereof, in that he on the ——— day of ——— (*state charge*), and it appearing (after reading in evidence the minute recorded by the court, &c., *or as the case may be, and where the fact is so*, and after hearing the evidence of ———, of ———) that (*state here the material facts of behaviour, language, &c., which under the circumstances amount to contempt*):

The said *A. B.* is therefore hereby convicted of the offence of having committed contempt of the authority of this court, and he is sentenced therefore to undergo (*state term of imprisonment, or* to pay a fine of ——— rupees, *&c.*).

Signed and dated ———,
Judge.

No. 135.—Form of Admission by the Defendant.

(See Section 809.)

The ——— day of ———, 18 —

The defendant appears and admits the claim, and consents to judgment being entered for the plaintiff as prayed for in his plaint.

———, Defendant.

Signed in my presence:
———, Chief Clerk.

SCHEDULE III.

DISTRICT COURTS.

Scale of Costs and Charges to be paid to Proctors in the District Courts as well between Party and Party as between Proctor and Client.

Where the cause of action, title to land or property, value of estate, or subject-matter of the action is	Class I. Under Rs. 900.	Class II. Rs. 900 and under Rs. 750.	Class III. Rs. 750 and under Rs. 3,000.	Class IV. Rs. 3,000 and under Rs. 5,000.	Class V. Rs. 5,000 and under Rs. 10,000
	Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.
Conference with client and receiving instructions to sue, defend, intervene or interplead, to obtain or to oppose the grant of letters of administration or letters of guardianship or probate, or to take any other proceedings provided for under this Ordinance ...	1 75	2 50	4 0	5 0	6 0
Proxy to Proctor for any of the above purposes	0 50	0 75	1 0	1 0	1 25
Letter of demand	0 75	1 25	1 75	1 75	1 75
Every necessary attendance on client in the progress of an action or proceeding	0 75	1 0	1 50	2 0	3 0
Every necessary attendance on Advocate	0 75	1 0	1 50	2 0	3 0
Every necessary attendance on the Judge, Secretary, Fiscal, Justice of the Peace, adverse party or his Proctor or Advocate, Registrar of Lands, or any other person in the progress of an action or proceeding ...	0 50	0 75	1 0	1 0	1 0
Drawing plaint, answer, replication, plea, or any other pleading, petition, or application	1 25	2 50	3 75	5 0	6 0
Preparing written instructions for Counsel to draw or settle the above, and attendance therewith ...	1 0	1 50	2 0	2 50	3 0
Attending court and filing plaint, answer, replication, plea, or any other pleading, petition, or application ...	1 0	2 50	3 75	4 0	4 0
Making and serving copy of same or translation thereof for service, per folio*	0 25	0 50	0 50	0 50	0 50
Making copies of documents to be filed with pleading, or for service on parties, per folio*	0 12½	0 12½	0 12½	0 12½	0 12½
Drawing summons, notice, subpœna, writ, or other process, order of court, decree, or judgment ...	0 50	0 75	1 0	1 25	1 50
Making copy or translation thereof ...	0 12½	0 25	0 37½	0 37½	0 37½
Attending Secretary to get the same signed	0 75	1 0	1 25	1 25	1 25
Attending court to search for return to summons or notice	0 75	1 0	1 75	1 75	1 75
Attending court without Advocate to support or oppose application or motion for judgment or any other special motion or application ...	2 0	3 0	4 0	5 0	7 50

* A folio to consist of 120 words.

Civil Procedure Code.

Where the cause of action, title to land or property, value of estate, or subject-matter of the action is	Class I. Under Rs. 200.	Class II. Rs. 200 and under Rs. 750.	Class III Rs. 750 and under Rs 3,000.	Class IV. Rs. 3,000 and under Rs. 5,000	Class V. Rs. 5,000 and under Rs. 10,000.
	Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.
Attending court to support or oppose all necessary or ordinary applications or motions	1 0	1 50	2 0	2 50	3 0
Drawing affidavit and fair copy, per folio*	0 50	0 50	0 50	0 50	0 50
Drawing probate, letters of administration, interrogatories, cross interrogatories, commissions, special case, injunctions, sequestrations, proclamation bonds, reference, citations, inventories, accounts, bills of costs, and fair copy. per folio*	0 50	0 50	0 75	1 0	1 25
Drawing brief for Advocate and fair copy, per folio*	0 25	0 50	0 50	0 50	0 50
Making copy of pleadings and documents to accompany brief, per folio*	0 12½	0 12½	0 12½	0 12½	0 12½
Where two or more Advocates are engaged, for drawing second brief (no charges for further briefs), per folio*	0 12½	0 25	0 25	0 25	0 25
Attending court with Advocate on trial, if cause argued or heard ...	5 0	10 0	10 0	12 50	15 0
Attending court with advocate on trial, if cause adjourned, postponed, or struck off	1 25	2 50	2 50	3 75	3 75
Attending court without Advocate on trial, and conducting cause ...	5 0	10 0	10 0	12 50	15 0
Attending court without Advocate on trial if cause adjourned, postponed, or struck off	1 25	2 50	2 50	3 75	3 75
Where judgment is deferred, attending court to hear it	0 75	1 25	1 75	1 75	1 75
Attending arbitration without Advocate, each sitting (no fees after sixth sitting)	2 50	3 75	5 0	5 0	5 0
Attending arbitrator with Advocate, each sitting (no fees after sixth sitting)	1 25	2 50	3 75	4 0	5 0
Attending Commissioner to examine or cross-examine witnesses on local examination of accounts or for any other purpose with Advocate ...	1 25	2 50	3 75	4 0	5 0
Attending Commissioner as above without Advocate	2 50	3 75	5 0	5 0	6 0
Perusing and considering papers, exhibits, or documents furnished or used in any action or proceeding by the adverse party, or furnished by a party to his own Proctor for the purpose of being used as evidence in any action or proceeding	Such sum as the Secretary shall consider fair and reasonable, subject to review and appeal as provided in this Ordinance.				
Examining witnesses preparatory to trial or for instructions for brief ...	1 0	1 50	2 0	2 50	3 0
For every necessary letter vouched by letter-book, exclusive of postage ...	0 25	0 50	0 50	0 50	0 50
Serving copy of bill of costs ...	0 25	0 37½	0 50	0 50	0 50
Attending taxation	0 75	1 50	2 50	2 50	2 50

* A folio to consist of 120 words.

Maps, surveys, plans, or models, when necessary, such sum as the Secretary shall deem reasonable, subject to review and appeal.
Witnesses' expenses as the court may determine.
All necessary instructions, applications, and motions, and all necessary attendance at consultations, and copies of documents, and all fees and charges not otherwise provided for (including as between proctor and client perusing and writing letters), such sum as the Secretary shall deem reasonable, subject to review and appeal.
In all actions involving over Rs. 10,000, the taxable charges to be 1-6th higher than in Class V.

Scale of Fees to be paid to Advocates in the District Court.

Where the cause of action, title to land or property, value of estate, or subject-matter of the action is	Class I. Under Rs. 200.		Class II. Rs. 200 and under Rs. 750.		Class III. Rs. 750 and under Rs. 3,000.		Class IV. Rs. 3,000 and under Rs. 5,000.		Class V. Rs. 5,000 and upwards.	
	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.
Retainer	10	50	10	50	21	0	21	0	21	0
Advising action, defence, or appeal ...	10	50	10	50	21	0	21	0	21	0
Drawing, perusing, settling, and signing any pleading, application, or petition	10	50	10	50	21	0	21	0	21	0
Drawing, perusing, and settling special case	10	50	21	0	31	50	31	50	31	50
Drawing, perusing, and settling interrogatories, decree, &c. ...	10	50	10	50	21	0	21	0	21	0
Consultation fee	10	50	10	50	21	0	21	0	21	0
Supporting or opposing any special motion or application ...	10	50	21	0	21	0	21	0	21	0
Brief fee on trial or argument ...	21	0	42	0	52	50	52	50	105	0
Brief fee where trial or argument is resumed	10	50	21	0	21	0	21	0	31	50

N.B.—(1) The fee of a Junior Advocate will not be allowed where two Advocates are engaged in Classes I. and II.
(2) No fees will be allowed for a third Advocate in any class.
(3) The brief fee of a Junior Advocate, where two Advocates are engaged, will be half of the Senior Advocate's brief fee.

The Secretary may allow any charges or fees as he shall deem reasonable (not otherwise provided for) on special application being made to him, subject to review and appeal as provided in this Ordinance.

COURTS OF REQUESTS.

Scale of Costs and Charges to be paid to Proctors in the Courts of Requests as well between Party and Party as between Proctor and Client.

	Rs.	c.
In Money Cases which have not been contested :		
Rs. 20 and not exceeding Rs. 50	5	0
Above Rs. 50 and not exceeding Rs. 100 ...	10	0
In Money Cases which have been contested :		
Rs. 20 and not exceeding Rs. 50	10	0
Above Rs. 50 and not exceeding Rs. 100 ...	15	0
In all Land Cases:		
Under Rs. 50	10	0
Rs. 50 and upwards	20	0
Advocates' Fees :		
Retainer and brief fee in all cases above Rs. 50, Rs. 10·50 to	21	0

Surveys and plans when necessary, such sum as the Clerk of the Court shall deem reasonable, subject to review and appeal.
Witnesses' expenses, as the court may determine.
The Commissioner may allow a further sum as costs on special application being made, subject to appeal.
For interpleader, summary, or other incidental proceedings, such costs as the Commissioner in his discretion may allow, subject to appeal.

SUPREME COURT.

In Appeal

Advocates' Fees.

	Rs. c.		Rs. c.
Appeals from Courts of Requests.			
Brief fee on argument	10 50	to	21 0
Appeals from District Courts or Supreme Court.			
Retainer	—		10 50
Consultation fee	10 50	to	31 50
Making or opposing any special motion ...	10 50	to	31 50
Brief fee	21 0	to	105 0
Drawing, perusing, settling, and signing any application or petition	10 50	to	31 50

Proctors' Fees as well between Party and Party as between Proctor and Client.

	Classes I. & II. Rs. c.	Class III. Rs. c.	Classes IV. & V. Rs. c.
Appeals from District Courts.			
Proxy	0 75	1 0	1 50
Instructing Advocate to make or oppose any special motion, or for advice on appellant's or respondent's case	5 0	7 50	10 0
Drawing brief for Advocate or any bond, affidavit, petition, or application, and fair copy, per folio* ...	0 25	0 50	0 50
Close copy of pleadings, evidence, and documents to accompany brief, per folio* ...	0 12½	0 12½	0 12½
Attending court	5 0	7 50	10 0
Every necessary attendance on Registrar	2 50	2 50	2 50
Drawing bill of costs ...	2 25	2 25	2 25
Serving copy with notice of taxation	0 75	0 75	0 75

The Registrar may allow any charges or fees not specially provided for, as he shall deem reasonable, on special application being made, subject to an appeal to the court.

* A folio to consist of 120 words.

19th February, 1889.

END OF VOLUME II.

CEYLON
PRINTED AT THE GOVERNMENT PRESS
COLOMBO